

## CHAPTER 115A

## WASTE MANAGEMENT

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**CITATION, PURPOSE,  
AND DEFINITIONS**

**115A.01 CITATION.**

Sections 115A.01 to 115A.72 shall be known as the waste management act of 1980.

**History:** 1980 c 564 art 1 s 1

**115A.02 LEGISLATIVE DECLARATION OF POLICY; PURPOSES.**

It is the goal of sections 115A.01 to 115A.72 to improve waste management in the state to serve the following purposes:

- (a) Reduction in waste generated;
- (b) Separation and recovery of materials and energy from waste;
- (c) Reduction in indiscriminate dependence on disposal of waste;
- (d) Coordination of solid waste management among political subdivisions;
- (e) Orderly and deliberate development and financial security of waste facilities including disposal facilities.

**History:** 1980 c 564 art 1 s 2

**115A.03 DEFINITIONS.**

Subdivision 1. For the purposes of this chapter, the terms defined in this section have the meanings given them, unless the context requires otherwise.

Subd. 2. "Agency" means the pollution control agency.

Subd. 3. "Board" means the waste management board established in section 115A.04.

Subd. 4. "Cities" means statutory and home rule charter cities and towns authorized to plan under sections 462.351 to 462.364.

Subd. 5. "Collection" means the aggregation of waste from the place at which it is generated and includes all activities up to the time the waste is delivered to a waste facility.

Subd. 6. "Commercial waste facility" means a waste facility established and permitted to sell waste processing or disposal services to generators other than the owner and operator of the facility.

Subd. 7. "Construction debris" means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads.

Subd. 7a. **Containment.** "Containment" means isolating, controlling, and monitoring waste in a waste facility in order to prevent a release of waste from the facility that would have an adverse impact upon human health and the environment.

Subd. 8. "Development region" means a region designated pursuant to sections 462.381 to 462.397.

Subd. 9. "Disposal" or "dispose" means the discharge, deposit, injection, dump-

ing, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

Subd. 10. "Disposal facility" means a waste facility permitted by the agency that is designed or operated for the purpose of disposing of waste on or in the land, together with any appurtenant facilities needed to process waste for disposal or transfer to another waste facility.

Subd. 11. "Generation" means the act or process of producing waste.

Subd. 12. "Generator" means any person who generates waste.

Subd. 13. "Hazardous waste" has the meaning given it in section 116.06, subdivision 13.

Subd. 13a. **Industrial waste.** "Industrial waste" means solid waste resulting from an industrial, manufacturing, service, or commercial activity that is managed as a separate waste stream.

Subd. 14. "Intrinsic hazard" of a waste means the propensity of the waste to migrate in the environment, and thereby to become exposed to the public, and the significance of the harm or damage likely to result from exposure of natural resources or the public to the waste, as a result of such inherent or induced attributes of the waste as its chemical and physical stability, solubility, bioconcentratability, toxicity, flammability, and corrosivity.

Subd. 15. "Intrinsic suitability" of a land area or site means that, based on existing data on the inherent and natural attributes, physical features, and location of the land area or site, there is no known reason why the waste facility proposed to be located in the area or site cannot reasonably be expected to qualify for permits in accordance with agency rules. Agency certification of intrinsic suitability shall be based on data submitted to the agency by the proposing entity and data included by the administrative law judge in the record of any public hearing on recommended certification, and applied against criteria in agency rules and any additional criteria developed by the agency in effect at the time the proposing entity submits the site for certification.

In the event that all candidate sites selected by the board before the effective date of this section are eliminated from further consideration and a new search for candidate sites is commenced, "intrinsic suitability" of a land area or site shall mean that, because of the inherent and natural attributes, physical features, and location of the land area or site, the waste facility proposed to be located in the area or site would not be likely to result in material harm to the public health and safety and natural resources and that therefore the proposed facility can reasonably be expected to qualify for permits in accordance with agency rules.

Subd. 16. "Legislative commission on waste management" or "legislative commission" means the commission established in section 115A.14.

Subd. 17. "Local government unit" means cities, towns, and counties.

Subd. 18. "Metropolitan area" has the meaning given it in section 473.121.

Subd. 19. "Metropolitan council" means the council established in chapter 473.

Subd. 20. "Metropolitan waste control commission" or "waste control commission" means the waste control commission established in chapter 473.

Subd. 21. "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

Subd. 22. "Natural resources" has the meaning given it in chapter 116B.

Subd. 23. "Person" has the meaning given it in section 116.06, but does not include the board.

Subd. 24. "Political subdivision" means any municipal corporation, governmen-

tal subdivision of the state, local government unit, special district, or local or regional board, commission, or authority authorized by law to plan or provide for waste management.

Subd. 25. "Processing" means the treatment of waste after collection and before disposal. Processing includes but is not limited to reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

Subd. 25a. "Recyclable materials" means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, metals, automobile oil, and batteries. Refuse derived fuel or other material that is destroyed by incineration is not a recyclable material.

Subd. 25b. "Recycling" means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

Subd. 26. "Regional development commission" means a commission established pursuant to sections 462.381 to 462.397.

Subd. 27. "Resource recovery" means the reclamation for sale, use, or reuse of materials, substances, energy, or other products contained within or derived from waste.

Subd. 28. "Resource recovery facility" means a waste facility established and used primarily for resource recovery, including related and appurtenant facilities such as transmission facilities and transfer stations primarily serving the resource recovery facility.

Subd. 28a. "Retrievable storage" means a method of disposal whereby wastes are placed in a facility established pursuant to sections 115A.18 to 115A.30 for an indeterminate period in a manner designed to allow the removal of the waste at a later time.

Subd. 28b. **Sanitary district.** "Sanitary district" means a sanitary district with the authority to regulate solid waste.

Subd. 29. "Sewage sludge" means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.

Subd. 30. "Sewage sludge disposal facility" means property owned or leased by a political subdivision and used for interim or final disposal or land spreading of sewage sludge.

Subd. 31. "Solid waste" has the meaning given it in section 116.06, subdivision 10.

Subd. 32. "Solid waste management district" or "waste district" means a geographic area extending into two or more counties in which the management of solid waste is vested in a special district established pursuant to sections 115A.62 to 115A.72.

Subd. 32a. **Stabilization.** "Stabilization" means a chemical or thermal process in which materials or energy are added to waste in order to reduce the possibility of migration of any hazardous constituents of the resulting stabilized waste in preparation for placement of the waste in a stabilization and containment facility.

Subd. 32b. **Stabilization and containment facility.** "Stabilization and containment facility" means a waste facility that is designed for stabilization and containment of waste, together with other appurtenant facilities needed to process waste for stabilization, containment, or transfer to another facility.

Subd. 33. "Transfer station" means an intermediate waste facility in which waste collected from any source is temporarily deposited to await transportation to another waste facility.

Subd. 34. "Waste" means solid waste, sewage sludge, and hazardous waste.

Subd. 35. "Waste facility" means all property, real or personal, including negative

and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste, except property for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. Waste facility includes but is not limited to transfer stations, processing facilities, and disposal sites and facilities.

Subd. 36. "Waste management" means activities which are intended to affect or control the generation of waste and activities which provide for or control the collection, processing and disposal of waste.

Subd. 37. **Waste rendered nonhazardous.** "Waste rendered nonhazardous" means (1) waste excluded from regulation as a hazardous waste under the delisting requirements of United States Code, title 42, section 6921 and any federal and state delisting rules, and (2) other nonhazardous residual waste from the processing of hazardous waste.

**History:** 1980 c 564 art 1 s 3; 1981 c 352 s 1,2; 1983 c 373 s 5,6; 1984 c 640 s 32; 1984 c 644 s 1,2; 1985 c 274 s 1-3; 1986 c 425 s 12-17; 1987 c 348 s 1,2; 1988 c 524 s 1; 1988 c 685 s 3,4

## MANAGEMENT BOARD; LEGISLATIVE COMMISSION GOVERNMENT RESOURCE RECOVERY PROGRAM

### 115A.04 WASTE MANAGEMENT BOARD; CREATION.

There is created in the executive branch a waste management board.

**History:** 1980 c 564 art 2 s 1

### 115A.05 BOARD MEMBERSHIP.

Subdivision 1. **General.** The board shall be composed of nine permanent members. Temporary members shall be added pursuant to subdivision 3.

Subd. 2. **Permanent members.** Eight of the permanent members of the board shall be appointed by the governor, with the advice and consent of the senate, to represent diverse areas and interests within the state. One member shall be appointed from each congressional district. The term of office and compensation of the eight members thus appointed, and the manner of removal and filling of vacancies, shall be as provided in section 15.0575, except that the terms of members serving on March 25, 1986 expire on that date. The rate of compensation shall be \$50 per day spent on board activities. The ninth permanent member of the board shall be the chair who shall be appointed by the governor with the advice and consent of the senate. Senate confirmation of the permanent members of the board shall be as provided by section 15.066. The chair shall serve at the pleasure of the governor for a term coterminous with that of the governor. The chair shall be the executive and operating officer of the board and shall determine the time and place of meetings, preside at meetings, appoint all board officers and hire and supervise all employees subject to the approval of the board, carry out the policy decisions of the board, and perform all other duties and functions assigned by the board or by law. No permanent member of the board shall hold other elected or appointed public office.

Subd. 3. **Temporary members.** Local representatives shall be added to the board as temporary voting members, as provided in sections 115A.201; 115A.22, subdivision 4; and 115A.34. The provisions of section 15.0575, subdivisions 3 and 4 relating to compensation, removal, and vacancy shall apply to temporary members except that the rate of compensation shall be \$50 per day spent on board activities and that appointments by the governor to fill vacancies shall take effect in the same manner as the original appointment.

**History:** 1980 c 564 art 2 s 2; 1981 c 352 s 3; 1983 c 305 s 15; 1983 c 373 s 7,8; 1986 c 425 s 18; 1986 c 444

**115A.06 POWERS OF THE BOARD.**

Subdivision 1. **General.** The board shall have the powers and duties prescribed by sections 115A.01 to 115A.72 and all powers necessary or convenient to discharge its duties.

Subd. 2. **Rules.** Unless otherwise provided, the board shall promulgate rules in accordance with chapter 15 to govern its activities and implement sections 115A.01 to 115A.72.

Subd. 3. **Actions.** The board may sue and be sued.

Subd. 4. **Acquisition of sites for hazardous waste facilities.** The board may direct the commissioner of administration to acquire by purchase, lease, condemnation, gift, or grant, any permanent or temporary right, title, and interest in and to real property, including positive and negative easements and water, air, and development rights, for sites and buffer areas surrounding sites for hazardous waste facilities approved by the board pursuant to sections 115A.18 to 115A.30 and 115A.32 to 115A.39. The board may also direct the commissioner of administration to acquire by purchase, lease, gift, or grant, development rights for sites and buffer areas surrounding sites for all or part of the period that the development limitations imposed by section 115A.21, subdivision 3, are in effect. Money for the acquisition of any real property and interest in real property pursuant to this subdivision shall come from the issuance of state waste management bonds in accordance with sections 115A.57 to 115A.59. The property shall be leased in accordance with terms determined by the board to the owner and operator of the hazardous waste facility located thereon at a rate sufficient to pay debt service on the bonds which provided funds used to acquire the property and to evaluate the eligibility of the property for inclusion in the inventory under section 115A.09 or candidacy under sections 115A.18 to 115A.30. Any local government unit and the commissioners of transportation, natural resources, and administration may convey or allow the use of any property for such sites and areas, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. Land owned by the state may be exchanged for land not owned by the state for the purpose of providing a site and buffer area for a commercial hazardous waste facility, in accordance with the provisions of section 94.341 to 94.347 and other law. The commissioner of administration may hold the property for the purposes for which it was acquired, and may lease, rent, or dispose of the property so far as not needed for such purposes, upon the terms and in the manner the commissioner deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter 117. The commissioner of administration may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation. Where the property is acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the property. Where the property is acquired by means other than through eminent domain proceedings, as by direct purchase or gift, the land owner's compensation shall be determined by the agreement of the parties involved. An award of compensation in a condemnation proceeding shall not be increased or decreased by reason of any increase or decrease in the value of the property caused by its designation in the inventory of preferred areas under section 115A.09 or as a candidate site under sections 115A.18 to 115A.30 or its selection as a site or buffer area.

Subd. 5. **Right of access.** Whenever the board or the chair acting on behalf of the board deems it necessary to the accomplishment of its purposes, the board or any member, employee, or agent thereof, when authorized by it or the chair, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damages to the property caused by the entrance and activity. The board may pay a reasonable estimate of the damages it believes will be caused by the entrance and activity before entering any property.

**Subd. 5a. Acquisition of easements.** If the board determines that any activity deemed necessary to accomplish its purposes under subdivision 5 constitutes a substantial interference with the possession, enjoyment, or value of the property where the activity will take place, the board may acquire a temporary easement interest in the property that permits the board to carry out the activity and other activities incidental to the accomplishment of the same purposes. The board may acquire temporary easement interests under this subdivision by purchase, gift, or condemnation. The right of the board to acquire a temporary easement is subject to the same requirements and may be exercised with the same authority as provided for acquisition of property interests by the commissioner of administration under subdivision 4.

**Subd. 6. Gifts and grants.** The board, or the chair or commissioner of administration on behalf of the board, may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of the purposes of the board, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

**Subd. 7. Property exempt from taxation.** Any real or personal property owned, used, or occupied by the board or the commissioner of administration for any purpose referred to in sections 115A.01 to 115A.72 is declared to be acquired, owned, used, and occupied for public and governmental purposes, and shall be exempt from taxation by the state or any political subdivision of or other governmental unit of or within the state, provided that those properties shall be subject to special assessments levied for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of the properties in any manner different from their use for hazardous waste management at the time shall be considered in determining the special benefit received by the properties.

**Subd. 8. Contracts.** The board or the chair acting on behalf of the board may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

**Subd. 9. Joint powers.** The board or the chair acting on behalf of the board may act under the provisions of section 471.59, or any other law providing for joint or cooperative action.

**Subd. 10. Research.** The board or the chair acting on behalf of the board may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and order all necessary hearings and investigations in connection with its work and may advise and assist other government units on planning matters within the scope of its powers, duties, and objectives.

**Subd. 11. Employees; contracts for services.** The board through its chair may employ persons and contract for services to perform research, engineering, legal, or other services necessary to carry out its functions.

**Subd. 12. Insurance.** The board through its chair may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in amounts it deems necessary to insure against liability of the board and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its property as it deems necessary.

**Subd. 13. Private and nonpublic data.** Any data held by the board which consists of trade secret information as defined by section 13.37, subdivision 1, clause (b), or sales information, shall be classified as private or nonpublic data as defined in section 13.02, subdivisions 9 and 12. When data is classified private or nonpublic pursuant to this subdivision the board may:

(a) Use the data to compile and publish analyses or summaries and to carry out its statutory responsibilities in a manner which does not identify the subject of the data; or

(b) Disclose the data when it is obligated to disclose it to comply with federal law or regulation but only to the extent required by the federal law or regulation.

The subject of data classified as private or nonpublic pursuant to this subdivision may authorize the disclosure of some or all of that data by the board.

Subd. 14. **Waste rendered nonhazardous and industrial waste.** The board shall encourage improved management of waste rendered nonhazardous and industrial waste that should be managed separately from mixed municipal solid waste, and may provide technical and planning assistance to political subdivisions, waste generators, and others for the purpose of identifying, developing, and implementing alternative management methods for those wastes.

**History:** 1980 c 564 art 2 s 3; 1981 c 311 s 39; 1981 c 352 s 4-6; 1982 c 545 s 24; 1982 c 569 s 1,2; 1983 c 373 s 9; 1984 c 644 s 3; 1986 c 425 s 19; 1986 c 444; 1987 c 348 s 3

#### 115A.07 DUTIES OF THE BOARD; GENERAL.

Subdivision 1. **Interagency coordination.** The chair of the board shall inform the commissioner of trade and economic development of the board's activities, solicit the advice and recommendations of the agency, and coordinate its work with the regulatory and enforcement activities of the agency.

Subd. 2. **Biennial report.** Before November 15 of each even-numbered year the board through its chair shall prepare and submit to the legislative commission a report of the board's operations and activities pursuant to sections 115A.01 to 115A.72 and any recommendations for legislative action. The report shall include a proposed work plan for the following biennium.

**History:** 1980 c 564 art 2 s 4; 1981 c 356 s 119,248; 1983 c 289 s 115 subd 1; 1986 c 444; 1987 c 312 art 1 s 26 subd 2; 1987 c 384 art 2 s 18

115A.071 [Repealed, 1984 c 644 s 82]

#### 115A.072 PUBLIC EDUCATION ON WASTE MANAGEMENT.

The board shall provide for the development and implementation of a program of general public education on waste management in cooperation and coordination with the pollution control agency, metropolitan council, department of education, department of agriculture, state planning agency, environmental quality board, environmental education board, educational institutions, and other public agencies with responsibility for waste management or public education. The objectives of the program are to: develop increased public awareness of and interest in environmentally sound waste management methods; encourage better informed decisions on waste management issues by business, industry, local governments, and the public; and disseminate practical information about ways in which households and other institutions and organizations can improve the management of waste.

**History:** 1987 c 348 s 4

#### 115A.075 LEGISLATIVE POLICY AGAINST DISPOSAL OF HAZARDOUS WASTE.

The legislature finds that hazardous waste must be managed in a manner that protects the health, safety, and welfare of the citizens of the state and protects and conserves the state's natural resources and environment; that reduction of the amount of waste generated and processing, treatment, separation, and resource recovery are the preferred methods to manage hazardous waste; and that disposal of hazardous waste should be used only as a last resort when all other management methods are ineffective, and then only if an environmentally suitable site can be identified in the state.

The board, in its planning, facility approval, and other activities related to hazardous waste shall give first priority to eliminating the generation of hazardous waste and eliminating or reducing the hazardous character of the waste generated in the state through processing, treatment, separation, and resource recovery.

**History:** 1984 c 644 s 4



**115A.08 DUTIES OF THE BOARD; HAZARDOUS WASTE MANAGEMENT REPORTS.**

**Subdivision 1. Report on liability and long-term care.** By January 1, 1981, the board through its chair shall report and make recommendations to the legislative commission on the management and financing of liability and postclosure monitoring and care for hazardous waste facilities in the state. The commissioner of energy and economic development, in consultation with the chair of the board, shall conduct background research and shall report to the board by July 1, 1980, on the subject of the report required by this subdivision and on additional research needed to complete the report and recommendations.

**Subd. 2. Report on private investment in hazardous waste management.** By January 1, 1981, the board through its chair shall report and make recommendations to the legislative commission on alternative state strategies to promote and secure private investment in hazardous waste management services, technologies, and facilities. The report at least shall evaluate: (a) strategies to promote and secure investments by generators in waste reduction, separation, pretreatment, and recovery; (b) strategies to secure generator assistance in the establishment and financing of hazardous waste facilities either directly through joint investment or indirectly through taxation; (c) strategies to protect the public against business failure by owners and operators of hazardous waste facilities; (d) strategies to promote and secure investment by the private waste management industry in hazardous waste facilities in the state. The report shall recommend priorities, objectives, and appropriate legislation for promoting and securing private investment in hazardous waste management. The commissioner of energy and economic development, in consultation with the chair of the board, shall conduct background research and shall report to the board by July 1, 1980, on the subject of the report required by this subdivision and on additional research needed to complete the report and recommendations.

**Subd. 3. Report on interstate cooperation.** By January 1, 1981, the board through its chair shall report and make recommendations to the legislative commission on actions to develop interstate cooperation in hazardous waste planning and management. The report shall make recommendations on uniformity of state laws, rules, and enforcement and on coordination of decisions on facility development and use. The commissioner of energy and economic development, in consultation with the chair of the board, shall conduct background research and shall report to the board by July 1, 1980, on the report required by this subdivision and on additional research needed to complete the report and recommendations.

**Subd. 4. Report on hazardous waste management.** By November 1, 1983, the board through its chair shall issue a report on hazardous waste management. The report shall include at least:

(a) an evaluation of alternative disposal facilities, disposal facility technologies, and disposal facility design and operating specifications;

(b) an evaluation of prospects, strategies, and methods for developing commercial hazardous waste disposal facilities of various types, sizes, and functions;

(c) an evaluation of all feasible and prudent alternatives to disposal, including waste reduction, separation, pretreatment, processing, and resource recovery, and the potential of the alternatives to reduce the need for and practice of disposal;

(d) an evaluation of feasible and prudent disposal abatement objectives, along with a description of hazardous waste management methods and technologies, private and government actions, facilities and services, development schedules, revenue-raising measures, and levels of public and private expenditure and effort necessary to the achievement of those objectives;

(e) an evaluation of implementation strategies, including at least:

(1) waste reduction, on-site processing, and off-site management by generators;

(2) changes and improvements in regulation, licensing, permitting, and enforcement;

- (3) government tax and financing programs to encourage proper waste management;
- (4) institutional alternatives, such as generator associations, cooperatives, franchises, public ownership, and flow control districts;
- (5) promotion of private investment;
- (6) interstate cooperation;
- (f) an evaluation of the possibilities for negotiating long-term contracts with other states or with facilities in other states for disposal or processing of hazardous waste from Minnesota.

The report shall analyze the environmental, social, and economic effects of the alternatives and methods by which unavoidable adverse effects could be mitigated.

**Subd. 5. Report on mitigation of local effects of hazardous waste facilities.** The board through its chair shall report and make recommendations on methods of mitigating and compensating for the local risks, costs, and other adverse effects of various types of hazardous waste facilities and on methods of financing mitigation and compensation measures. The methods of mitigating and compensating to be considered must include but not be limited to the following: payment outside of levy limitations in lieu of taxes for all property taken off the tax rolls; preference in reviews of applications for federal funds conducted by the metropolitan council and regional development commissions; payment of all costs to service the facilities including the cost of roads, monitoring, inspection, enforcement, police and fire, and litter clean up costs; payment for buffer zone amenities and improvement; local control over buffer zone design; a guarantee against any and all liability that may occur. The recommendations on processing facilities must be made with the report required by subdivision 4. The recommendations on disposal facilities must be made with the report required by subdivision 5b.

**Subd. 5a. Report on assurance of security of hazardous waste facilities.** With the report required by subdivision 5, the board through its chair shall issue a report and make recommendations on methods of assuring the security of commercial hazardous waste facilities. The report and recommendations shall be based on the need to assure: effective monitoring and enforcement during operation; effective containment, control, and corrective action in any emergency situation; financial responsibility of the owner and operator throughout the operating life of the facility, using performance bonds, insurance, escrow accounts, or other means; proper closure; financial responsibility after closure; and perpetual postclosure monitoring and maintenance. The report shall include recommendations on the source of funds, including operator contributions, fee surcharges, taxes, and other sources; the amount of funds; effective protection and guarantee of funds; administration; regulatory and permit requirements; the role of local authorities; and other similar matters.

**Subd. 5b. Report on need and feasibility of hazardous waste disposal facilities.** The board through its chair shall issue a report on the estimate of need and the economic feasibility analysis required by section 115A.24. The report must be issued before the hearing required by section 115A.27. The board through its chair shall issue an interim report by February 1, 1985, on the research on need and economic feasibility.

**Subd. 6. Preparation of hazardous waste reports; procedures; public involvement.** By January 1, 1981, the board through its chair shall submit a proposed scope of work and work program for the hazardous waste reports required by subdivisions 4 and 5 to the legislative commission for review. During the preparation of the proposed scope of work and work plan and the reports, the board and the chair on behalf of the board shall encourage public debate and discussion of the issues relating to the reports. Representatives of the board, including at least one permanent member, shall meet with local officials and sponsor at least one public meeting in areas of the state affected by the inventory of preferred processing facility areas prepared pursuant to section 115A.09. The board and the chair on behalf of the board shall follow the procedures set out in section 115A.22, for consulting with citizens in areas affected by the selection of candidate sites for disposal facilities. To assist it in preparing the reports, the plan,

and the certification of need required by subdivisions 4 to 5a and sections 115A.11 and 115A.24, the board through its chair shall make grants to each local project review committee established for a candidate site for disposal identified under sections 115A.18 to 115A.30. The grants may be used by the committee to employ staff, pay administrative expenses, or contract with affected units of government or qualified consultants. The board and the chair on behalf of the board shall request recommendations from the private waste management industry, the board's advisory councils, affected regional development commissions, and the metropolitan council and shall consult with them on the board's intended disposition of the recommendations. The reports of the board shall summarize the comments received and the board's response to the comments. Copies of the reports must be submitted to the legislative commission on waste management.

**History:** 1980 c 564 art 2 s 5; 1981 c 352 s 7-9; 1981 c 356 s 248; 1982 c 569 s 4; 1983 c 289 s 115 subd 1; 1983 c 373 s 10-13; 1984 c 644 s 5,6; 1985 c 248 s 70; 1986 c 444

### **115A.09 DUTIES OF THE BOARD; INVENTORY OF PREFERRED AREAS FOR HAZARDOUS WASTE PROCESSING FACILITIES.**

**Subdivision 1. Board responsibility.** By January 1, 1982, the board shall prepare an inventory of preferred areas of up to ten square miles in size for commercial hazardous waste processing facilities. No preferred area may extend into more than one statutory or home rule charter city or town, but the board may propose adjoining preferred areas in adjacent cities and towns. The inventory shall include at least three areas for each of the following categories of processing facilities: (a) a commercial chemical processing facility for hazardous waste, (b) a commercial incineration facility for hazardous waste, and (c) a commercial transfer and storage facility for hazardous waste.

**Subd. 2. - Evaluation of areas.** The board shall not be required to promulgate rules pursuant to chapter 14 to govern its evaluation and selection of areas under this section. The board and the chair on behalf of the board shall evaluate the areas in consultation with the board's advisory councils, the affected counties and regions, generators of hazardous waste, and prospective facility developers. The evaluation shall consider at least the consistency of areas with state and federal regulations, local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation and other services appropriate to the hazardous waste facilities, the quality of other potential areas, and the location of hazardous waste generators. The agency shall prepare a report on the suitability of each proposed area for the use intended.

**Subd. 3. Procedures.** The board shall propose the inventory of areas by August 1, 1981 by publication in the state register and newspapers of general circulation in the state and by mail to each regional development commission or metropolitan council, and local government unit containing a proposed area. The publications and mailing shall include notice of hearings on the board's proposal. The hearings shall be conducted by the state office of administrative hearings in a manner determined by the administrative law judge to be consistent with the completion of the proceedings and the administrative law judge's report in the time allowed by this section. At the hearing, any local government unit in which an area is proposed for inclusion in the inventory may propose an alternative area or areas within its jurisdiction. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the board and additional information on the proposed area or alternative areas which is relevant to the board's decision on the areas to be included in the inventory. The rulemaking and contested case procedures of chapter 14 shall not apply to this hearing. The administrative law judge may consolidate hearings. The report of the administrative law judge shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. When any area in the inventory becomes

unavailable as a hazardous waste facility site, the inventory shall be amended, in the manner of its original adoption, provided, however, that during the period when the inventory is being amended any other area in the inventory may be reviewed and approved under sections 115A.32 to 115A.39. No action of the board shall be held invalid by reason of the board's failure to notify any of the entities listed in this subdivision.

**Subd. 4. Grants; technical assistance.** To assist counties participating in the inventory required by this section, the board through its chair may make grants to the counties to be used to employ staff, pay administrative expenses, or contract with qualified consultants. The board through its chair shall ensure the delivery to the counties of technical information and assistance by appropriate state agencies.

**Subd. 5. Inclusion of volunteer sites.** The owner of property that may be a suitable location for a hazardous waste processing facility may apply to the board for inclusion of the property in the inventory of preferred areas. If the board accepts the application, the property must be evaluated as provided in subdivision 2. If the board determines that the property is suitable as a preferred area, it may include it in the inventory after complying with the procedures provided in subdivision 3.

**History:** 1980 c 564 art 2 s 6; 1980 c 615 s 60; 1981 c 352 s 10; 1982 c 424 s 130; 1984 c 640 s 32; 1984 c 644 s 7; 1986 c 444

#### **115A.10 DUTIES OF THE BOARD; HAZARDOUS WASTE FACILITIES; ENCOURAGEMENT OF PRIVATE ENTERPRISE.**

The board and the chair on behalf of the board shall encourage the development and operation of hazardous waste facilities by private enterprise to the extent practicable and consistent with the purposes of sections 115A.01 to 115A.72 and the board's hazardous waste management plan adopted pursuant to section 115A.11. In preparing the reports under section 115A.08 and the inventory of processing facility sites under section 115A.09, in adopting the management plan, and in its actions and decisions under sections 115A.18 to 115A.30 and 115A.32 to 115A.39, the board and the chair on behalf of the board shall solicit the active participation of private waste management firms and shall so conduct its activities as to encourage private permit applications for facilities needed in the state. The board shall promulgate rules for accepting and evaluating applications for permits for the construction and operation of facilities at sites preferred by the board pursuant to section 115A.09. The rules shall include standards and procedures for making determinations on the minimum qualifications, including technical competence and financial capability, of permit applicants.

**History:** 1980 c 564 art 2 s 7; 1983 c 373 s 14; 1986 c 444

#### **115A.11 HAZARDOUS WASTE MANAGEMENT PLAN.**

**Subdivision 1. Requirement.** The board shall adopt, amend as appropriate, and implement a hazardous waste management plan.

**Subd. 1a. Policy.** In developing and implementing the plan, the highest priority of the board must be placed upon alternatives to land disposal of hazardous wastes including: technologies to modify industrial processes or introduce new processes that will reduce or eliminate hazardous waste generation; recycling, reuse, and recovery methods to reduce or eliminate hazardous waste disposal; and conversion and treatment technologies to reduce the degree of environmental risk from hazardous waste. The board shall also consider technologies for retrievable storage of hazardous wastes for later recycling, reuse, recovery, conversion, or treatment.

**Subd. 1b. Contents.** The plan must include at least the elements prescribed in this subdivision.

(a) The plan must estimate the types and quantities of hazardous waste that will be generated in the state through the year 2000.

(b) The plan must set out specific and quantifiable objectives for reducing to the greatest feasible and prudent extent the need for and use of disposal facilities located

within the state, through waste reduction, pretreatment, retrievable storage, processing, and resource recovery.

(c) The plan must estimate the minimum disposal capacity and capability required by generators in the state for use through the year 2000. The estimate must be based on the achievement of the objectives under paragraph (b).

(d) The plan must describe and recommend the implementation strategies required to assure availability of disposal capacity for the types and quantities of waste estimated under paragraph (c) and to achieve the objectives required by paragraph (b). The recommendations must address at least the following: the necessary private and government actions; the types of facilities and programs required; the availability and use of specific facilities outside of the state; development schedules for facilities, services, and rules that should be established in the state; revenue-raising and financing measures; levels of public and private effort and expenditure; legal and institutional changes; and other similar matters.

(e) The plan must provide for the orderly development of hazardous waste management sites and facilities to protect the health and safety of rural and urban communities. In preparing the plan the board shall consider its impact upon agriculture and natural resources.

(f) The plan must include methods and procedures that will encourage the establishment of programs, services, and facilities that the board recommends for development in the state for the recycling, reuse, recovery, conversion, treatment, destruction, transfer, storage, or disposal, including retrievable storage, of hazardous waste.

The plan must be consistent with the estimate of need and feasibility analysis prepared under section 115A.24, the analysis provided in the phase I environmental impact statement determined to be adequate under section 115A.25, subdivision 1a, and the decisions made by the board under sections 115A.28 and 115A.291.

The board may make the implementation of elements of the plan contingent on actions of the legislature that have been recommended in the draft plan.

**Subd. 2. Procedure.** The plan and the procedures for hearings on the plan are not subject to the rulemaking or contested case provisions of chapter 14. Before revising the draft plan or amending its adopted plan, the board shall provide notice and hold a public meeting.

**Subd. 3. Preparation of draft plan.** By July 1, 1983, the chair of the board shall report to the legislative commission on waste management about the hearing to be held pursuant to this subdivision. The chair shall describe the board's plans and procedures for the hearing, the provisions for encouraging public participation in the hearing, and the board's plans for preparing the required report to the legislature fully and accurately summarizing the results of the hearing, the objections raised to the board's draft plan, and the board's response to the testimony received. The legislative commission shall hold a hearing to receive public comment on the board's proposed hearing procedures and thereafter shall make any recommendations it deems appropriate for changes in the board's procedures. By November 1, 1983, the board through its chair shall issue a draft hazardous waste management plan proposed for adoption pursuant to this section. The draft plan must include an explanation of the basis of the findings, conclusions, and recommendations contained therein. The board shall hold a public hearing on the draft plan within 30 days of its issuance. Notices of the draft plan and notice of the hearing must be published in the State Register and newspapers of general circulation in the state. The notices must indicate how copies of the draft plan may be obtained. The board shall make the draft plan available for public review and comment at least 21 days before the hearing. The hearing must be ordered by the chair of the board and must be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings in the time allowed by this section. The hearing officer may not issue a report but shall preside at the hearing to ensure that the hearing is conducted in a fair, orderly, and expeditious manner and in accordance with the hearing procedures of the board. A majority of the permanent members of the board shall attend the hearing. In connection with the hearing, the

chair of the board shall provide copies of the studies and reports on which the draft plan is based and shall present an explanation of the basis of the findings, conclusions, and recommendations in the draft plan.

Within 15 days following the hearing the director of the agency shall issue a hazardous waste pollution control report. The report must be submitted to the legislative commission. The report must be based on existing and proposed federal and state pollution control rules and available information and expertise on the character, nature, and degree of hazard of the types and categories of hazardous waste identified in the plan. The report must:

(a) assess the pollution control problems and risks associated with each type and category of hazardous waste identified by the plan as eligible for disposal, before or after pretreatment, at a facility or facilities of the type and design selected by the board, and identify design and pretreatment alternatives or other methods for dealing with those problems and risks;

(b) identify at least one specific alternative technology for dealing with each waste that the report recommends should not be accepted for disposal, and assess the pollution control problems and risks associated with the alternatives;

(c) assess the pollution control problems and risks associated with each standard and criteria contained in the plan for determining the eligibility or ineligibility of waste for disposal;

(d) assess the pollution control programs and risks associated with the processing and other alternatives to disposal that are recommended in the plan for specific types or categories of hazardous waste, and identify methods for dealing with those problems and risks.

Within 30 days following the hearing, the board shall revise the draft plan as it deems appropriate, shall make a written response to the testimony received at the hearing and to the agency's report explaining its disposition of any recommendations made with respect to the plan, and shall submit to the legislative commission the revised draft plan, together with a report on the testimony received, the board's response, and the results of the hearing process.

**History:** 1980 c 564 art 2 s 8; 1980 c 615 s 60; 1981 c 352 s 11; 1982 c 424 s 130; 1982 c 569 s 5; 1983 c 373 s 15,16; 1984 c 644 s 8; 1986 c 444; 1987 c 348 s 5

#### 115A.12 ADVISORY COUNCILS.

**Subdivision 1. Solid and hazardous waste management.** The chair of the board shall establish a solid waste management advisory council and a hazardous waste management planning council broadly representative of the geographic areas and interests of the state. The councils shall have not less than nine nor more than 18 members each. The membership of the solid waste council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives from private solid waste management firms. The solid waste council shall contain at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery. The membership of the hazardous waste advisory council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives of hazardous waste generators and private hazardous waste management firms. The chairs of the advisory councils shall be appointed by the chair of the board. The chair of the board shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the chair of the board. The solid waste advisory council shall make recommendations to the board on its solid waste management activities. The hazardous waste advisory council shall make recommendations to the board on its activities under sections 115A.08, 115A.09, 115A.10, 115A.11, 115A.20, 115A.21, and 115A.24. Members of the advisory councils shall serve without compensation but shall be reimbursed for their reasonable expenses

as determined by the chair of the board. The solid waste management advisory council and the hazardous waste management planning council expire as provided in section 15.059, subdivision 5.

Subd. 2. [Repealed, 1988 c 629 s 64]

**History:** 1980 c 564 art 2 s 9; 1981 c 356 s 120; 1983 c 289 s 115 subd 1; 1986 c 444; 1987 c 312 art 1 s 5; 1987 c 384 art 2 s 19; 1988 c 629 s 18

**115A.13** [Repealed, 1987 c 348 s 52]

**115A.14 LEGISLATIVE COMMISSION ON WASTE MANAGEMENT.**

Subdivision 1. **Creation, membership, vacancies.** There is created in the legislative branch a legislative commission on waste management. The commission shall consist of ten members appointed as follows:

- (1) Five members of the senate to be appointed by the subcommittee on committees and to serve until their successors are appointed;
- (2) Five members of the house to be appointed by the speaker and to serve until their successors are appointed;
- (3) Vacancies occurring on the commission shall not affect the authority of the remaining members of the commission to carry out the functions thereof, and such vacancies shall be filled in the same manner as the original positions.

Subd. 2. **Staff.** The commission is authorized, without regard to the civil service laws and rules, to appoint and fix the compensation of such additional legal and other personnel and consultants as may be necessary to enable it to carry out its functions, or to contract for services to supply necessary data, except that any state employees subject to the civil service laws and rules who may be assigned to the commission shall retain civil service status without interruption or loss of status or privilege. The staff shall be hired and supervised for the commission by the executive director of the legislative commission on Minnesota resources.

Subd. 3. **Data from state agencies; availability.** The commission may request information from any state officer or agency in order to assist it in carrying out its duties and such officer or agency is authorized and directed to promptly furnish any data required, subject to applicable requirements or restrictions imposed by chapter 13 and section 15.17.

Subd. 4. **Powers and duties.** (a) The commission shall oversee the activities of the board under this chapter relating to solid and hazardous waste management, the activities of the agency under sections 116.16 to 116.181 relating to water pollution control, and the activities of the metropolitan council relating to metropolitan waste management under sections 473.801 to 473.848, and direct such changes or additions in the work plan of the board and agency as it deems fit.

(b) The commission shall make recommendations to the standing legislative committees on finance and appropriations for appropriations from:

- (1) the environmental response, compensation, and compliance fund under section 115B.20, subdivision 5;
- (2) the metropolitan landfill abatement fund under section 473.844; and
- (3) the metropolitan landfill contingency action fund under section 473.845.

(c) The commission may conduct public hearings and otherwise secure data and expressions of opinion. The commission shall make such recommendations as it deems proper to assist the legislature in formulating legislation. Any data or information compiled by the commission shall be made available to any standing or interim committee of the legislature upon request of the chair of the respective committee.

Subd. 5. [Repealed, 1988 c 685 s 44]

Subd. 6. [Repealed, 1988 c 685 s 44]

**History:** 1980 c 564 art 2 s 11; 1981 c 311 s 39; 1982 c 545 s 24; 1985 c 248 s 70; 1986 c 425 s 21; 1986 c 444; 1986 c 465 art 3 s 3; 1987 c 384 art 2 s 20; 1988 c 685 s 5

**NOTE:** The term "legislative commission on Minnesota resources" will be changed to "Minnesota future resources commission" upon the approval of the constitutional amendment proposed in Laws 1988, chapter 690, article 1, section 1.

**115A.15 STATE GOVERNMENT RESOURCE RECOVERY.**

Subdivision 1. **Establishment of program.** There is established within state government a resource recovery program to promote the reduction of waste generated by state agencies, the separation and recovery of recyclable and reusable commodities, the procurement of recyclable commodities and commodities containing recycled materials, and the uniform disposition of recovered materials and surplus property. The program shall be administered by the commissioner of administration.

Subd. 1a. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Recyclable commodities" means materials, pieces of equipment, and parts which are not reusable but which contain recoverable resources.

(b) "Reusable commodities" means materials, pieces of equipment, parts, and used supplies which can be reused for their original purpose in their existing condition.

Subd. 2. **Duties of commissioner.** The commissioner of administration shall develop policies to require state agencies and the state legislature to separate all recyclable and reusable commodities wherever feasible. The commissioner shall develop and institute procedures for the separation, collection, and storage of used commodities wherever feasible in state agencies and shall establish policies for the reuse, sale, or disposition of recovered materials and surplus property. The commissioner shall promote and publicize the waste reduction and waste separation and recovery procedures on an ongoing basis to all state employees. The commissioner shall issue guidelines for the procurement of recyclable commodities and commodities containing recycled materials that include definitions of recycled materials, the percentage of recycled materials to be contained in each commodity and performance specifications. To the extent practicable, the guidelines shall be written so as to give preference to recyclable commodities and commodities containing recycled materials. The commissioner shall inform state agencies whenever recycled commodities are available for purchase. The commissioner shall investigate opportunities for the inclusion of and may include local governments and regional agencies in administrative state programs to reduce waste, and to separate and recover recyclable and reusable commodities.

Subd. 3. **Powers of commissioner.** The commissioner of administration shall have such powers as are necessary to implement and operate the program. All state agencies shall comply with the policies, guidelines, and procedures established by the commissioner pursuant to this section. The commissioner shall have the power to issue orders to compel compliance.

Subd. 4. **Staff.** The commissioner of administration shall employ an administrator to manage the resource recovery program and other staff and consultants as are necessary to carry out the program.

Subd. 5. **Reports.** By January 1 of each odd-numbered year, the commissioner of administration shall submit a report to the governor and to the legislative commission summarizing past activities and proposed goals of the program for the following biennium. By July 1 of each even-numbered year commissioner of the pollution control agency and the commissioner of public service shall submit recommendations to the commissioner regarding the operation of the program.

Subd. 6. **Use of materials distribution revolving fund.** All funds appropriated by the state for the resource recovery program, all revenues resulting from the sale of recyclable and reusable commodities made available for sale as a result of the resource recovery program and all reimbursements to the commissioner of expenses incurred by the commissioner in developing and administering resource recovery systems for state agencies, governmental units, and nonprofit organizations must be deposited in the materials distribution revolving fund created in section 16B.28. The fund may be used for all activities associated with the program including payment of administrative and operating costs. The commissioner shall determine the waste disposal cost savings associated with recycling and reuse activities, collect those savings from the account responsible for disposing of wastes produced in state buildings, and credit the savings to the materials distribution revolving fund.

**History:** 1980 c 564 art 2 s 12; 1981 c 356 s 121; 1982 c 569 s 6-8; 1983 c 289 s 115



*subd 1; 1985 c 274 s 4; 1986 c 425 s 22; 1986 c 444; 1987 c 186 s 15; 1987 c 312 art 1 s 10 subd 2; 1987 c 348 s 6; 1988 c 613 s 20*

### **115A.152 TECHNICAL AND RESEARCH ASSISTANCE TO GENERATORS.**

**Subdivision 1. Purposes.** The board shall provide for the establishment of a technical and research assistance program for generators of hazardous and industrial waste in the state. The program must be designed to assist generators in the state to obtain information about management of hazardous and industrial wastes, to identify and apply methods of reducing the generation of hazardous and industrial wastes, to facilitate improved management of hazardous and industrial waste and compliance with hazardous and industrial waste rules, and for other similar purposes. The program must emphasize assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing waste management methods, and developing and applying waste reduction techniques. Information and techniques developed under this program must be made available through the program to all generators in the state.

**Subd. 2. Assistance.** The assistance program must include at least the following elements:

(1) outreach programs including on-site consultation at locations where hazardous and industrial waste is generated, seminars, workshops, training programs, and other similar activities designed to assist generators to evaluate their hazardous and industrial waste generation and management practices, identify opportunities for waste reduction and improved management, and identify subjects that require additional information and research;

(2) a program to assemble, catalog, and disseminate information about hazardous and industrial waste reduction and management methods, available commercial waste management facilities and consultant services, and regulatory programs (provided that specific questions by generators about interpretation or application of waste management rules should be referred to appropriate regulatory agencies);

(3) evaluation and interpretation of information needed by generators to improve their management of hazardous and industrial waste; and

(4) informational and technical research to identify alternative technical solutions that can be applied by specific generators to reduce the generation of hazardous and industrial waste.

**Subd. 3. Administration; evaluation.** The assistance program must be coordinated with other public and private programs that provide management and technical assistance to smaller businesses and generators of small quantities of hazardous and industrial waste, including programs operated by public and private educational institutions. The board may make grants to a public or private person or association that will establish and operate the elements of the program, but the grants must require that the assistance be provided at no cost to the generators and that the grantees provide periodic reports on the improvements in waste management, waste reduction, and regulatory compliance achieved by generators through the assistance provided.

**History:** 1984 c 644 s 9; 1985 c 248 s 70; 1987 c 348 s 7

### **115A.154 WASTE REDUCTION GRANTS.**

**Subdivision 1. Proposals and grants.** The board may make grants to generators of hazardous and industrial waste in the state for studies to determine the feasibility of applying specific methods and technologies to reduce the generation of hazardous and industrial waste. Grants may be awarded only on the basis of proposals submitted to the board by generators. The board shall select proposals that offer the greatest opportunity to significantly reduce the generation of hazardous or industrial waste by the generators making the proposal and, if applied generally, to significantly reduce the generation of hazardous or industrial waste in the state. The significance of waste reduction may be measured by the volume of hazardous or industrial waste that is

eliminated or by the reduction in risk to public health and safety and the environment that is achieved by the reduction. In awarding grants, the board may consider the extent of any financial and technical support that will be available from other sources for the study. The board may adopt additional criteria for awarding grants consistent with the purposes of this section.

**Subd. 2. Limitations.** The waste reduction information and techniques developed using grants awarded under this section must be made available to all hazardous and industrial waste generators in the state through the technical assistance and research program established under section 115A.152. Grant money awarded under this section may not be spent for capital improvements or equipment.

**History:** 1984 c 644 s 10; 1987 c 348 s 8

### 115A.156 WASTE PROCESSING AND COLLECTION FACILITIES AND SERVICES; DEVELOPMENT GRANTS.

**Subdivision 1. Purpose.** The board may make grants to eligible recipients to determine the feasibility and method of developing and operating specific types of commercial facilities and services for collecting, processing, or containment of hazardous waste and for improving management of waste rendered nonhazardous and industrial waste. Grants may be made for:

- (1) market assessment, including generator surveys;
- (2) conceptual design and preliminary engineering;
- (3) financial and business planning necessary to address sources of funding, financial security, liability, pricing structure, and similar matters necessary to the development and proper operation of a facility or service;
- (4) environmental impact and site analysis, preparation of permit applications, and environmental and permit reviews;
- (5) analysis of methods of overcoming identified technical, institutional, legal, regulatory, market, or other constraints; and
- (6) analysis of other factors affecting development, operation, and use of a facility or service.

**Subd. 2. Eligibility.** A person proposing to develop and operate specific collection, processing, or containment facilities or services to serve generators in the state and persons seeking to develop or operate specific types of facilities or services to manage industrial waste generated in the state, are eligible for a grant. The board may give preference to applications by associations of two or more generators in the state proposing to develop and operate commercial facilities or services for collection, processing, or containment of their hazardous wastes.

**Subd. 3. Procedure for awarding grants.** (a) The board may establish procedures for awarding grants under this section. The procedures for awarding grants shall include consideration of the following factors:

- (1) the need to provide collection, processing, or containment for a variety of types of hazardous wastes;
- (2) the extent to which the facility or service would provide a significant amount of processing, collection, or containment capacity for waste generated in the state, measured by the volume of waste to be managed, the number and geographic distribution of generators to be served, or the reduction of risk to public health and safety and the environment achieved by the operation of the facility or service;
- (3) the availability of the facility or service to all generators needing the service in the area to be served;
- (4) the contribution of the facility or service to achieving the policies and objectives of the hazardous waste management plan;
- (5) participation by persons with demonstrated experience in developing, designing, or operating hazardous waste collection, processing, or containment facilities or services;

- (6) the need for assistance from the board to accomplish the work;
  - (7) the extent to which a proposal would produce and analyze new information;
- and
- (8) other factors established by the board consistent with the purposes of this section.

(b) The board may adopt emergency rules under sections 14.29 to 14.36 to implement the grant program. Emergency rules adopted by the board remain in effect for 360 days or until permanent rules are adopted, whichever occurs first.

**Subd. 4. Limitations.** A grant may not exceed \$50,000. The board may award more than one grant for a single proposed facility or service if the board finds that results of previous studies justify additional work on other aspects of the development and operation of the facility or service. Grant money may not be spent for capital improvements or equipment.

**Subd. 5. Matching funds required.** (a) For hazardous waste, a recipient other than an association of generators in the state must agree to pay at least 50 percent of the cost of the study. An association of two or more generators in the state must agree to pay at least 20 percent of the cost of the study.

(b) For industrial waste, a grant must be matched by money or in-kind services provided by the grantee covering at least 50 percent of the project cost.

**History:** 1984 c 640 s 32; 1984 c 644 s 11; 1987 c 348 s 9-11; 1988 c 685 s 6-8

### **115A.158 DEVELOPMENT OF PROCESSING AND COLLECTION FACILITIES AND SERVICES; REQUESTS FOR PROPOSALS.**

**Subdivision 1. Request by board; contents of proposal.** The board through its chair shall request proposals for the development and operation of specific types of commercial hazardous waste processing and collection facilities and services, and improved management of waste rendered nonhazardous and industrial waste, that offer the greatest possibility of achieving the policies and objectives of the waste management plan including the goal of reducing to the greatest extent feasible and prudent the need for and practice of disposal. The proposals must contain at least the following information:

(1) the technical, managerial, and financial qualifications and experience of the proposer in developing and operating facilities and services of the type proposed;

(2) the technical specifications of the proposed facility or service including the process that will be used, the amount and types of hazardous or industrial waste that can be handled, the types, volume, and proposed disposition of any residuals, and a description of anticipated adverse environmental effects;

(3) the requirements of the site or sites needed to develop and operate the facility or service and the likelihood that a suitable site or sites will be available for the facility or service;

(4) projections of the costs and revenues of the facility or service, the types and numbers of generators who will use it, and the fee structure and estimated user charges necessary to make the facility or services economically viable;

(5) the schedule for developing and commencing operation of the facility or service; and

(6) the financial, technical, institutional, legal, regulatory, and other constraints that may hinder or prevent the development or operation of the facility or service and the actions that could be taken by state and local governments or by the private sector to overcome those constraints.

The information provided in the proposal must be based on current and projected market conditions, hazardous or industrial waste streams, legal and institutional arrangements, and other circumstances specific to the state.

**Subd. 2. Procedure; evaluation; report.** In requesting proposals, the board shall inform potential developers of the assistance available to them in siting and establish-

ing hazardous waste processing and collection facilities and services in the state and improved industrial waste management in the state, including the availability of sites listed on the board's inventory of preferred areas for hazardous waste processing facilities, the authority of the board to acquire sites and order the establishment of facilities in those areas, the policies and objectives of the hazardous waste management plan, and the availability of information developed by the board on hazardous or industrial waste generation and management in the state.

The board shall evaluate the proposals received in response to its request and determine the extent to which the proposals demonstrate the qualifications of the developers, the technical and economic feasibility of the proposed facility or service, and the extent to which the proposed facility or service will contribute in a significant way to the achievement of the policies and objectives of the hazardous waste management plan.

The board shall report to the legislative commission on the proposals that it has received and evaluated, and on the legislative, regulatory, and other actions needed to develop and operate the proposed facilities or services.

**Subd. 3. Time for proposals.** The board shall issue the first round of requests under this section by June 1, 1984. The first round proposals must be returned to the board by November 1, 1984. The board shall submit its report on these proposals to the legislative commission by January 1, 1985. The board may issue additional requests in 1985 and in future years.

**History:** 1984 c 644 s 12; 1986 c 444; 1987 c 348 s 12,13

#### **115A.159 DEVELOPMENT OF HAZARDOUS WASTE COLLECTION AND TRANSPORTATION SERVICES.**

The board through its chair shall request, pursuant to the first round of requests under section 115A.158, proposals for the development and operation of a system of commercial collection and transportation services for hazardous waste especially designed to serve smaller businesses and generators of small quantities of hazardous waste that have difficulty securing effective and reliable collection and shipment services and acceptance of wastes at appropriate waste facilities. The board's request under this section should require proposals containing at least the following elements:

- (1) a collection service;
- (2) assistance to clients about on-site waste management;
- (3) a shipping coordination service, which may include transfer and temporary storage and bulking facilities and computerized inventory tracking capabilities, as the proposer deems appropriate and necessary to provide efficient and reliable combined shipment of wastes from generators to processing and disposal facilities;
- (4) a brokerage service to ensure acceptance of wastes at appropriate processing and disposal facilities;
- (5) recommendations on the utility of local or regional associations of generators to increase the efficiency and reliability of the services; and
- (6) recommendations on processing facilities, including mobile modular processing units, that would complement the collection and transportation system.

The board's request must require proposals that offer the delivery of services in stages commencing no later than July 1, 1985. The board should specify or require specification of immediate and staged performance standards for the services proposed, which may include standards relating to the volume and types of waste, the number and geographic distribution of generators served, accessibility, the percent of total waste and generators served, and other appropriate matters. After evaluating proposals received in response to its request, the board may select a proposer as the recipient of a development grant under section 115A.156. Notwithstanding the provisions of section 115A.156, subdivisions 4 and 5, on the amount of the grant and the required match, the grant made under this section may be up to \$350,000 and may not require a match greater than ten percent of the grant award.

**History:** 1984 c 644 s 13; 1986 c 444

**115A.162 INDUSTRIAL OR HAZARDOUS WASTE PROCESSING FACILITY LOANS.**

The board shall review applications for industrial or hazardous waste processing facility loans received by the agriculture and economic development authority and forwarded to the board under section 41A.066. The board may certify a loan application only if it determines that:

- (1) the applicant has demonstrated that the proposed facility is technically feasible;
- (2) the applicant has made a reasonable assessment of the market for the services offered by the proposed facility;
- (3) the applicant has agreed to provide funds for the proposed facility in an amount equal to at least 25 percent of the capital cost of the facility excluding land acquisition cost;
- (4) the applicant has agreed to pay the cost of any land acquisition necessary to develop the facility; and
- (5) the facility will contribute in a significant way to achievement of the policies and objectives of the hazardous waste management plan and, in particular, to reduce the need for and practice of industrial or hazardous waste disposal.

As a condition of its certification the board may require an applicant to agree to provide funds in excess of 25 percent of the capital cost of the facility in addition to any land acquisition costs. In certifying an application or in determining the share of the capital costs that will be provided by the loan, the board may consider the types and volumes of industrial or hazardous waste that will be handled by the facility, the number of generators served by the facility, and the extent to which the facility serves the need of smaller businesses that generate industrial or hazardous waste. The board may establish additional criteria for certifying loan applications consistent with the provisions of this section.

The board may adopt emergency rules under sections 14.29 to 14.36 to implement the loan program. Emergency rules adopted by the board remain in effect for 360 days or until permanent rules are adopted, whichever occurs first.

*History: 1984 c 640 s 32; 1984 c 644 s 14; 1987 c 384 art 1 s 15; 1988 c 685 s 9*

**115A.165 EVALUATION OF GRANT AND LOAN PROGRAMS; REPORT.**

By November 1 of each even-numbered year, the board shall evaluate the extent to which the programs provided in sections 115A.152 to 115A.162 have contributed to the achievement of the policies and objectives of the hazardous waste management plan and other related planning documents prepared by the board. The evaluation must consider the amount of waste reduction achieved by generators through the technical and research assistance and waste reduction grant programs and the progress in reducing the need for and practice of disposal achieved through the development grants and the request for proposal program. The board shall report the results of its evaluation to the legislative commission with its recommendations for further action.

*History: 1984 c 644 s 15; 1988 c 685 s 10*

**115A.17** [Repealed, 1986 c 425 s 46]

**COMMERCIAL HAZARDOUS WASTE  
DISPOSAL FACILITIES**

**115A.175 SITING AND FACILITY DEVELOPMENT AUTHORITY; LIMITATIONS.**

**Subdivision 1. Siting activity.** The board shall terminate all activity under sections 115A.18 to 115A.30 relating to the selection and evaluation of sites for hazardous waste facilities, except as provided in this section.

Subd. 2. **Dismissal of candidate sites.** All candidate sites remaining under section 115A.21, subdivision 1, are dismissed from further consideration as candidate sites for hazardous waste facilities.

Subd. 3. **Alternative siting procedure.** The board shall proceed with site evaluation and selection in accordance with sections 115A.191 to 115A.194. In evaluating and selecting sites under sections 115A.191 to 115A.194, the board shall act in accordance with sections 115A.18 to 115A.20, except as otherwise provided in sections 115A.191 to 115A.194.

Subd. 4. **Stabilization and containment facility; restrictions; containment standards to protect human health and environment.** No facility may be sited under sections 115A.18 to 115A.30 except a stabilization and containment facility. The facility must be above grade unless the board determines, after environmental review under section 115A.194, subdivision 2, that an alternative design would provide greater protection for human health and the environment. No waste may be accepted for containment at the facility except the following:

- (a) waste rendered nonhazardous;
- (b) industrial waste; and
- (c) waste that is not eligible for acceptance under clause (a) or (b), if the agency determines that all of the following requirements are met:
  - (1) there is no feasible and prudent alternative to containment of the waste that would minimize adverse impact upon human health and the environment;
  - (2) the waste has been treated using feasible and prudent technology that minimizes the possibility of migration of any hazardous constituents of the waste; and
  - (3) the waste meets the standards adopted to protect human health and the environment under the authority of United States Code, title 42, section 6924(m), and any additional protective standards adopted by the agency under section 116.07, subdivision 4.

If no federal or state standards have been adopted for a waste as provided in clause (3), the waste may not be accepted for containment.

A person proposing a waste for containment at the facility has the burden of demonstrating that the waste may be accepted under the requirements of this subdivision. The demonstration under clause (c) must document in a form satisfactory to the agency the manner in which the person has attempted to meet the standard for acceptance of the waste under clause (a) and the characteristics of the waste that prevent compliance with that standard.

Subd. 5. **Agency adoption of rules.** The agency shall adopt rules under chapter 14 establishing procedures by which a person must demonstrate that a hazardous waste can be accepted by the facility as provided in subdivision 4. The agency shall adopt all rules necessary to implement the provisions of subdivision 4 and this subdivision before granting any permit for operation of the facility.

**History:** 1986 c 425 s 23

#### **115A.18 LEGISLATIVE FINDINGS; PURPOSE.**

The legislature finds that proper management of hazardous waste generated in the state is needed to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens, that the establishment of safe commercial disposal facilities in the state may be necessary and practicable to properly manage the waste, that this cannot be accomplished solely by the activities of private persons and political subdivisions acting alone or jointly, and that therefore it is necessary to provide a procedure for making final determinations on whether commercial stabilization and containment facilities should be established in the state and on the locations, sizes, types, and functions of any such facilities.

**History:** 1980 c 564 art 3 s 1; 1984 c 644 s 17; 1986 c 425 s 47

**115A.19 PROCEDURE NOT EXCLUSIVE.**

Except as provided in Minnesota Statutes 1980, section 115A.21, subdivision 1, the procedure established by sections 115A.18 to 115A.30 for the permitting of hazardous waste stabilization and containment facilities shall not preclude the issuance of permits by the agency pursuant to section 116.07 for stabilization and containment facilities at sites not reviewed under sections 115A.18 to 115A.30.

**History:** 1980 c 564 art 3 s 2; 1981 c 352 s 12; 1986 c 425 s 47

**115A.191 VOLUNTARY CONTRACTS WITH COUNTIES.**

**Subdivision 1. Board to seek contracts.** The waste management board and any eligible county board may enter a contract as provided in this section expressing their voluntary and mutually satisfactory agreement concerning the location and development of a stabilization and containment facility. The chair shall negotiate contracts with eligible counties and shall present drafts of the negotiated contracts to the board for its approval. The chair shall actively solicit, encourage, and assist counties, together with developers, landowners, the local business community, and other interested parties, in developing resolutions of interest. The county shall provide affected political subdivisions and other interested persons with an opportunity to suggest contract terms.

**Subd. 2. Resolution of interest in negotiating; eligibility.** A county is eligible to negotiate a contract under this section if the county board files with the waste management board and the board accepts a resolution adopted by the county board that expresses the county board's interest in negotiations and its willingness to accept the preliminary evaluation of one or more study areas in the county for consideration as a location of a stabilization and containment facility. The county board resolution expressing interest in negotiations must provide for county cooperation with the board, as necessary to facilitate the evaluation of study areas in the county, and for the appointment of a member of the county board or an officer or employee of the county as official liaison with the board with respect to the matters provided in the resolution and future negotiations with the board. A county board by resolution may withdraw a resolution of interest, and the waste management board may withdraw its acceptance of such a resolution, at any time before the parties execute a contract under this section. A county that is eligible to negotiate a contract shall receive the benefits as provided in section 477A.012.

**Subd. 3. Evaluation of study areas.** The chair, in cooperation with the county board, may engage in activities necessary for the evaluation of study areas in any county that is eligible to negotiate a contract under this section. The determination of whether any study area may be considered or excluded from consideration under sections 115A.18 to 115A.20 and sections 115A.191 to 115A.194 is exclusively the authority of the board. Before entering a contract under this section, the board shall determine whether the study area identified in the contract is appropriate for preparation of an environmental impact statement.

**Subd. 4. Requirements of contract.** A contract between the board and a county must include provisions by which:

(a) the state, acting through the board, agrees to implement the terms of the contract and provide the benefits and implement the procedures and practices agreed upon pursuant to subdivision 5;

(b) the state, acting through the board, agrees to provide benefits to the county under section 477A.012; and

(c) the county agrees that the study area or areas in the county that have been determined by the board to be appropriate for preparation of an environmental impact statement are subject to evaluation and selection by the board as provided in section 115A.194.

After executing the contract, the study areas identified in the contract remain subject to the provisions of section 115A.194 until the study areas are dismissed from further consideration by the board.

Subd. 5. **Negotiated terms.** A contract executed under subdivision 4 may contain any terms agreed upon by the state and the county, including:

(a) procedures relating to the evaluation and selection of a site and the construction, operation, and maintenance of a proposed facility, including procedures for cooperation, consultation, and coordination between the board and the county or political subdivisions in the county on those matters;

(b) practices and procedures necessary to assure and demonstrate safe operation of a proposed facility;

(c) services, compensation, or benefits to be provided by the state to the county or political subdivisions in the county, including (i) payments in lieu of taxes on a publicly owned site; (ii) compensation for property owners adjoining or in close proximity to the facility through property tax relief or assurance of property value; (iii) compensation for local public expenditures necessitated by the facility; (iv) compensation for demonstrable private and community impacts from the facility; (v) monetary compensation to the county and other parties affected by the facility, in addition to compensation for necessary expenditures and demonstrable impacts; (vi) provision of services or benefits to promote the health, safety, comfort, and economic development and well-being of the county and its citizens;

(d) provision for amendment of the contract; and

(e) provisions for resolutions of disputes under the contract.

Terms of the contract requiring enactment of additional state law, including an appropriation law, are contingent on that enactment. The contract may provide for implementation of its terms during evaluation of a study area in the county under section 115A.194 and in the event that a study area in the county is selected as the site for a facility under that section.

**History:** 1986 c 425 s 24

### **115A.192 SELECTION OF DEVELOPER OF STABILIZATION AND CONTAINMENT FACILITY; REQUEST FOR PROPOSALS.**

Subdivision 1. **Request for proposals.** The chair shall issue requests for proposals for the development and operation of a stabilization and containment facility. The request must be designed to obtain detailed information about the qualifications of a respondent to develop and operate the facility; the capital and operating costs of the facility and the sources and methods by which the respondent plans to finance the facility; the technical specifications of the proposed facility and the technologies to be employed for processing, stabilization, containment, and monitoring; the requirements of the site for the proposed facility; the schedule for developing and commencing operation of the facility; and other matters which the chair deems necessary for the board to evaluate and select a developer and operator for the facility. Before issuing the requests, the chair shall prepare a draft of clauses (a) to (e) of the report required by section 115A.193. The draft must accompany the requests for proposals.

Subd. 2. **Selection of developer; procedure.** After evaluating responses to the request for proposals and before selecting a site as provided in section 115A.194, the board shall decide whether to select a developer for a stabilization and containment facility. If the board selects a developer it shall proceed as provided in section 115A.194 to select a site for the development of a facility. If the board decides not to select a developer, the board shall proceed as provided in section 115A.194 to select and acquire a site for potential future development of a facility.

**History:** 1986 c 425 s 25

### **115A.193 REPORT ON FACILITY DEVELOPMENT.**

The chair shall prepare a report concerning the development of a stabilization and containment facility. The report must include:

(a) a conceptual plan that describes and evaluates the proposed design and operation of the facility, including an evaluation of technical feasibility, a description and



evaluation of the types and quantities of hazardous waste and nonhazardous residual waste from hazardous waste processing that the facility would be designed to accept, and a description and evaluation of technologies needed or desired at the facility for processing, stabilization, and containment, including above grade containment;

(b) procedures and standards for the operation of the facility that require the use of reduction, recycling, and recovery of any hazardous waste before the waste is accepted for stabilization when the alternative or additional management method is feasible and prudent and would materially reduce adverse impact on human health and the environment;

(c) evaluation of the design and use of the facility for processing, stabilization, or containment of industrial waste, including technical and regulatory issues and alternative management methods;

(d) evaluation of feasible and prudent technologies that may substantially reduce the possibility of migration of any hazardous constituents of wastes that the facility would be designed to accept;

(e) a general analysis of the necessary and desirable physical, locational, and other characteristics of a site for the facility;

(f) an evaluation of the prospects of and conditions required for the regulatory delisting of residual waste from hazardous waste processing;

(g) an evaluation of the feasibility of an interstate, regional approach to the management of hazardous waste; and

(h) an economic feasibility analysis of the development and operation of the facility, including the anticipated use of the facility by Minnesota generators from within and outside the state, and sources of private and public financing that may be available or necessary for development or operation.

The chair shall submit a draft of the report to the board and the legislative commission on waste management by July 1, 1988, and before executing contracts under section 115A.191.

**History:** 1986 c 425 s 26

#### **115A.194 EVALUATION AND SELECTION OF SITES; PERMITS.**

Subdivision 1. **Board; determination of siting procedure.** The board shall proceed to take the actions provided in subdivisions 2 and 4 pursuant to any contracts executed under section 115A.191.

Subd. 2. **Board; requirements before decisions.** Before the board makes decisions under subdivision 4:

(a) the board shall complete environmental impact statements on the environmental effects of the decisions, in the manner provided in chapter 116D and the rules issued under that chapter; and

(b) the chair shall present to the board the report on facility development prepared as provided in section 115A.193.

Subd. 3. **Agencies; report on permit conditions and application requirements.** Within 30 days following the determination of the adequacy of the environmental impact statements and the presentation of the report on facility development, after consulting with the board, facility developers, and affected local government units, the chief executive officer of each permitting state agency shall issue to the board reports on permit conditions and permit application requirements at each location. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and requirements of permits, and the probable supplementary documentation that will be required for the environmental impact statement and permit applications under subdivision 5. If the board has selected a developer, the report of the agency must include a description of the rules necessary to implement the provisions of section 115A.175, subdivision 4.

Subd. 4. **Board decisions.** Within 90 days after the board has determined the

adequacy of the environmental impact statement, the board shall: (1) specify the type, capacity, and function of the stabilization and containment facility, including operating and design standards for the facility; and (2) select one of the study areas evaluated under this section as the site for the facility, unless the board determines, based upon potential significant adverse effects on the environment, that none of the study areas should be selected as the site consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction. The provisions of sections 115A.28, subdivisions 2 and 3 and 115A.30 apply to any board decision to select a study area as a site under this subdivision.

If the board selects a study area as a site under this subdivision, the board shall dismiss all other study areas from further consideration. If the board does not select a study area as a site under this subdivision, the board shall dismiss all study areas from further consideration.

**Subd. 5. Agency; permits; environmental review.** Before the agency issues permits for the facility, the agency shall complete an environmental impact statement specifically on the environmental effects of permitting decisions required to be made by permitting agencies. The statement must be completed in the manner provided in chapter 116D and the rules issued under that chapter.

**History:** 1986 c 425 s 27

#### **115A.195 PUBLIC PARTICIPATION IN OWNERSHIP AND MANAGEMENT OF FACILITY.**

The stabilization and containment facility developed under sections 115A.18 to 115A.30 may be wholly owned by the state or jointly owned by the state and a developer selected by the board under section 115A.191. The board chair may negotiate and the board may enter agreements with a selected developer providing terms and conditions for the development and operation of the facility. If the agreements provide for capital improvements or equipment, or for payment of state money, the agreements may be implemented only if funds are appropriated and available to the board for those purposes.

**History:** 1988 c 683 s 1

#### **115A.20 EVALUATION OF SITES.**

The board shall not be required to promulgate rules pursuant to chapter 14 to govern its evaluation and selection of sites for commercial stabilization and containment facilities under sections 115A.18 to 115A.30, nor shall the agency be required to promulgate rules pursuant to chapter 14 on criteria and standards to govern its certification of intrinsic suitability of sites for commercial stabilization and containment facilities under sections 115A.18 to 115A.30. In evaluating and selecting sites for stabilization and containment facilities, the board shall consider at least the following factors:

(a) economic feasibility, including proximity to concentrations of generators of the types of hazardous wastes likely to be proposed and permitted for stabilization and containment;

(b) intrinsic suitability of the sites;

(c) federal and state pollution control and environmental protection rules;

(d) the risk and effect for local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to a facility or at a facility, water, air, and land pollution, and fire or explosion;

(e) the consistency of a facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(f) the adverse effects of a facility at the site on agriculture and natural resources

and opportunities to mitigate or eliminate such adverse effects by stipulations, conditions, and requirements respecting the design and operation of a disposal facility at the proposed site.

No land shall be excluded from consideration except land determined by the agency to be intrinsically unsuitable for the use intended.

**History:** 1980 c 564 art 3 s 3; 1981 c 352 s 13; 1982 c 424 s 130; 1986 c 425 s 47

#### **115A.201 BEDROCK STABILIZATION AND CONTAINMENT.**

**Subdivision 1. Evaluation of technology; study areas.** The board shall evaluate the feasibility of bedrock stabilization and containment of hazardous waste. If the board determines that bedrock stabilization and containment is or may be a feasible stabilization and containment technology, the board shall identify bedrock study areas of up to four square miles in size for further evaluation.

**Subd. 2. Participation by affected localities.** A plan review committee shall be established for each study area and a temporary board member shall be appointed as provided in this subdivision, to participate in the preparation of the draft plan and certification of need to be issued under section 115A.11 and adopted under sections 115A.11 and 115A.24. Within 30 days following the identification of a bedrock study area by the board, the governor shall appoint the chair and members of a plan review committee, ensuring a balanced representation of all parties with a legitimate and direct interest in the review of the plan and certification of need. The plan review committee shall be eligible for technical assistance and grants pursuant to section 115A.08, subdivision 6, to assist it in participating in the plan and certification of need. Within 30 days following the appointment of a plan review committee, the committee shall select a temporary board member to be added to the board. Temporary board members may be members of the local plan review committee, and they shall be residents of the county in which the study area is primarily located. Temporary board members shall serve for terms lasting so long as the location the member represents is a study area. Temporary board members shall not participate or vote in decisions affecting the selection and certification of sites under this section and section 115A.21.

**Subd. 3. Candidate sites.** If the board determines that candidate sites are to be selected in the bedrock study areas, the candidate sites must be proposed and selected as provided in section 115A.21, subdivisions 1 and 2a.

**History:** 1983 c 373 s 17; 1986 c 425 s 47

#### **115A.21 CANDIDATE SITES.**

**Subdivision 1. Selection.** The board shall select more than one location in the state, no more than one site per county, as candidate sites for commercial stabilization and containment facilities for hazardous waste. Candidate sites must be reviewed pursuant to sections 115A.22 to 115A.30. No location shall be selected as a candidate site unless the agency certifies its intrinsic suitability for the use intended pursuant to subdivision 2a.

**Subd. 1a. Volunteer candidate sites.** The board may select candidate sites under this subdivision in addition to sites selected under subdivision 1. The board may submit a site to the agency if the site is proposed as a candidate site by a facility operator with the approval of the owners of the site and the statutory or home rule charter city or town and county in which the site is located. A location may be selected as a candidate site under this subdivision if the agency determines and certifies that the site is intrinsically suitable for the use intended. The commissioner of the agency shall identify the information needed by the agency to make the determination of intrinsic suitability. The board shall obtain the necessary information and provide it to the commissioner.

The commissioner of the agency shall make a recommendation to the agency board on intrinsic suitability within 30 days after receiving the information from the board. The agency board shall make the determination on intrinsic suitability not later than

the first regular meeting of the agency board held at least ten days after the commissioner's recommendation.

The decisions of the board and the agency under this subdivision are not subject to the contested case or rulemaking provisions of chapter 14, or the procedures provided in subdivision 2a.

**Subd. 2. Search procedure.** The board shall consult with the agency and the private waste management industry in selecting candidate sites. Any sites proposed in applications for permits for stabilization and containment facilities being reviewed by the agency may be included by the board as candidate sites, provided the agency certifies the intrinsic suitability of the sites. The agency shall suspend its review of any permit application being reviewed by the board for inclusion as a candidate site until the site is eliminated from consideration as a candidate site.

As soon as practicable, the board through its chair shall publish a request soliciting proposals and permit applications for hazardous waste stabilization and containment facilities from potential developers and operators of such facilities. Notice of the request shall be published in the State Register and newspapers of general circulation in the state and shall be transmitted to all regional development commissions, the metropolitan council, and all counties in the state. The board may select conceptual design and operating specifications for a variety of hazardous waste stabilization and containment facilities in sufficient detail and extent in the judgment of the board to assist the evaluation of sites and the selection of candidate sites. By November 1, 1980, the board through its chair shall notify each regional development commission, or the metropolitan council, and each local government unit within whose jurisdiction the board intends to search for candidate sites. The notification shall explain the selection of the jurisdiction as a search area; shall summarize any conceptual specifications and the evaluation factors, criteria, standards, and procedures the board intends to use in selecting candidate sites; and shall describe the relationship of the candidate site selection process to the other review procedures under sections 115A.18 to 115A.30 and the hazardous waste reports and plans required under sections 115A.04 to 115A.15. The notification shall request recommendations and suggestions from each such commission, the metropolitan council, and local government unit on the criteria, standards, and procedures the board should use in selecting candidate sites within the time allowed. The board through its chair shall make a written response to any recommendations, explaining its disposition of the recommendations. No action of the board may be held invalid by reason of the board's failure to notify any of the entities listed in this subdivision.

**Subd. 2a. Intrinsic suitability certification.** The board shall provide to the agency data relating to the intrinsic suitability of a site to be proposed as a candidate site as soon as available. The commissioner of the agency shall issue notice indicating whether the commissioner recommends that the proposed sites should be certified as intrinsically suitable. The board through its chair and the commissioner shall publish notice of hearings on the board's proposal and the commissioner's recommendations. Notice shall be published in the state register and newspapers of general circulation in the state and shall be sent by mail to all regional development commissions, or the metropolitan council, and to local government units containing a proposed candidate site. The hearings shall be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings and the administrative law judge's report to the agency and board in the time allowed by this section. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the board and additional information on the proposed sites which is relevant to the board's decision on candidate sites and the agency's decision on intrinsic suitability. The rulemaking and contested case procedures of chapter 14 shall not apply to this hearing. The administrative law judge may consolidate hearings. The report of the administrative law judge shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. The agency shall make a final determination

as to the intrinsic suitability of each proposed site and shall certify sites accordingly. No action of the board or agency may be held invalid by reason of the board's or agency's failure to notify any of the entities listed in this subdivision.

**Subd. 3. Development limitations.** In order to permit the comparative evaluation of sites and buffer areas and the participation of affected localities in decisions about the use of sites and buffer areas, development in each candidate site and in a buffer area identified by the board surrounding and at least equal in area to the site shall be limited to development consistent with the development plans, land use classifications, and zoning and other official controls applying to the property on February 1, 1983. No development inconsistent with the plans, use classification, controls, and zoning requirements; no transfers or change of use of public land; and no conditional uses may be permitted. The development limitations shall extend until six months following final action of the board pursuant to section 115A.28. No plan, land use classification, official control, or zoning of any political subdivision shall permit or be amended to permit development inconsistent with the requirements of this section, nor shall any political subdivision sanction or approve any subdivision, permit, license, or other authorization which would allow development inconsistent with the requirements of this section.

**History:** 1980 c 564 art 3 s 4; 1981 c 352 s 14-16; 1982 c 424 s 130; 1982 c 569 s 9; 1983 c 373 s 18; 1984 c 640 s 32; 1984 c 644 s 18,19; 1986 c 425 s 47; 1986 c 444; 1987 c 186 s 15

#### **115A.22 PARTICIPATION BY AFFECTED LOCALITIES.**

**Subdivision 1. General.** In order systematically to involve those who would be affected most directly by stabilization and containment facilities in all decisions leading to their establishment, the board's decisions on reports referred to in subdivision 7, the plan adopted under section 115A.11, and the estimates and analysis required under section 115A.24 shall not be made until after the establishment of local project review committees for each candidate site, with representation on the board, pursuant to this section.

**Subd. 2. Establishment of local project review committees.** A local project review committee shall be established for each location selected as a candidate site. The local committee shall exist, and its members shall serve, so long as the location for which the committee was formed is a candidate site or, for the site or sites finally chosen, until the commencement of the operation of the facility at that site.

**Subd. 3. Membership on local committees.** Within 60 days following the selection of a candidate site under section 115A.21, the governor shall appoint the chair and members of the local project review committee, ensuring a balanced representation of all parties with a legitimate and direct interest in the outcome of the project review. The governor shall consult particularly with affected local units of government before selecting members. Members may be added to the local committee from time to time by the governor.

**Subd. 4. Appointment of temporary board members.** Within 30 days following the appointment of a local project review committee, the local committee shall select a temporary board member to be added to the board for the purposes of the reports to be issued under section 115A.08, the plan to be adopted under section 115A.11, and the estimates, the analysis and the review of candidate sites conducted under sections 115A.18 to 115A.30. Temporary board members shall not participate or vote in decisions affecting the selection and certification of sites under sections 115A.201 and 115A.21. If a local committee fails to appoint a temporary board member within the time permitted by this subdivision, the governor shall appoint a temporary board member to represent the committee on the board. Temporary board members may be members of the local project review committee, and they shall be residents of the county where the candidate site is located. Temporary board members shall serve for terms lasting as long as the location the member represents is a candidate site or, in the case of members representing a site or sites finally chosen for the facility, until the commencement of the operation of the facility at that site.

Subd. 5. **Duties of local committees.** During the review, the local project review committee shall: inform affected local communities, government units, and residents of the proposed land containment and stabilization and containment facilities and of the planning and environmental review process relating to the proposed facilities; solicit and record local attitudes and concerns respecting the proposed facilities and represent and communicate such attitudes and concerns to the board, the legislative commission, the environmental quality board, the agency, and other units and agencies of government; and act as a forum for the exchange of local attitudes and concerns and the development, where possible, of local consensus.

Subd. 6. **Technical assistance; grants.** To assist local project review committees to participate in the preparation of environmental impact statements and permit applications, the board through its chair shall make grants to the committees to be used to employ staff, pay administrative expenses, or contract with affected units of government or qualified consultants. The board through its chair shall ensure the delivery to the committees of technical information and assistance by appropriate state agencies.

Subd. 7. **Hazardous waste management reports.** The chair and the board shall prepare and submit the hazardous waste management reports required by section 115A.08, subdivisions 4 to 5a, in consultation with the local project review committees. The chair and the board shall request recommendations from the local committees and shall consult with the committees on the board's intended disposition of the recommendations. The reports of the board shall summarize the recommendations of the committees and the board's response to the recommendations. Before submitting the reports, the board shall hold at least one public meeting in each county in which a candidate site is located. A majority of the permanent members shall be present at each meeting. Notice of the meeting shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the meeting. The notice shall describe the proposed facilities, the proposed location, the purpose of the board's report to the legislature, and the subsequent and related activities of the board.

**History:** 1980 c 564 art 3 s 5; 1981 c 352 s 17,18; 1983 c 373 s 19-23; 1984 c 644 s 20,21; 1986 c 425 s 47; 1986 c 444

**115A.23** [Repealed, 1983 c 373 s 72]

#### **115A.24 STABILIZATION AND CONTAINMENT FACILITIES; ESTIMATE OF NEED; ANALYSIS OF ECONOMIC FEASIBILITY.**

Subdivision 1. **Estimate of need for stabilization and containment facilities.** The board shall develop an estimate of the number, types, capacity, and function or use of any hazardous waste stabilization and containment facilities needed in the state.

In developing its estimate the board shall:

(1) prepare a preliminary estimate of the types and quantities of waste generated in the state for which stabilization and containment will be needed through the year 2000 based to the extent practical on data obtained from generators who are likely to use the facility;

(2) estimate the disposal capacity located outside of the state, taking into account the status of facility permits, current and planned capacity, and prospective restrictions on expansion of capacity;

(3) estimate the prospects for the continued availability of capacity outside of the state for disposal of waste generated in the state;

(4) estimate the types and quantities of waste likely to be generated as residuals of the commercial hazardous waste processing facilities recommended by the board for development in the state and for which stabilization and containment will be needed, taking into account the likely users of the facilities; and

(5) compare the indirect costs and benefits of developing stabilization and containment facilities in the state or relying on facilities outside the state to dispose of

hazardous waste generated in the state, taking into account the effects on business, employment, economic development, public health and safety, the environment, and the development of collection and processing facilities and services in the state.

In preparing the estimate, the board may identify need for stabilization and containment only to the extent that the board has determined that there are no feasible and prudent alternatives, including waste reduction, separation, pretreatment, processing, and resource recovery, which would minimize adverse impact upon air, water, land and all other natural resources. Economic considerations alone may not justify an estimate of need for stabilization and containment nor the rejection of alternatives. Alternatives that are speculative and conjectural are not feasible and prudent. The board shall consider all technologies being developed in other countries as well as in the United States when it considers the alternatives to hazardous waste stabilization and containment.

Subd. 2. [Repealed, 1983 c 121 s 33]

Subd. 3. **Radioactive waste.** The board's estimate of need shall not allow the use of a facility for stabilization and containment of radioactive waste, as defined by section 116C.71, subdivision 6.

Subd. 4. **Economic feasibility analysis.** The board shall prepare an economic feasibility analysis for stabilization and containment facilities of the type, capacity, and function or use estimated by the board to be needed in the state under subdivision 1. The analysis must be specific to the sites where the facilities are proposed to be located. The analysis must include at least the following elements:

(1) an estimate of the capital, operating, and other direct costs of the facilities and the fee schedules and user charges necessary to make the facilities economically viable;

(2) an assessment of the other costs of using the stabilization and containment facilities, such as transportation costs and stabilization and containment surcharges;

(3) an assessment of the market for the facility for waste generated in the state, that identifies the generators that would use the facility under existing and likely future market conditions, describes the methods otherwise available to those generators to manage their wastes and the costs of using those methods, and establishes the level at which the cost of using the proposed facilities would be competitive with the cost of using other available methods of waste management;

(4) an estimate of the subsidy, if any, needed to make the facility competitive for Minnesota generators under existing market conditions and the changes in market conditions that would increase or lower any subsidy.

**History:** 1980 c 564 art 3 s 7; 1981 c 352 s 20; 1982 c 424 s 130; 1982 c 569 s 10, 11; 1983 c 121 s 26; 1983 c 373 s 24; 1984 c 644 s 22; 1986 c 425 s 47

#### **115A.241 PARTICIPATION BY FACILITY DEVELOPERS AND OPERATORS.**

The board shall solicit the participation of private developers and operators of waste facilities in the evaluation of hazardous waste stabilization and containment sites and facility specifications. The board shall request developers and operators to submit letters of intent to participate in evaluating sites, economic feasibility of stabilization and containment facilities, and facility specifications. The letters must be submitted to the board by September 1, 1984. To qualify for selection as a developer or operator, a person shall submit operability reports to the board at least 60 days before the board's hearings under section 115A.27, and shall submit an amended report within 60 days following the decisions under section 115A.28. The letters of intent and reports must be in the form and contain the information deemed appropriate by the board.

**History:** 1983 c 373 s 25; 1984 c 644 s 23; 1986 c 425 s 47

#### **115A.25 ENVIRONMENTAL REVIEW PROCEDURES.**

Subdivision 1. **Environmental impact statement.** A phased environmental impact statement must be completed by the board and the agency before any permits are issued under section 115A.291. The statement must be prepared and reviewed in accordance

with chapter 116D and the rules issued pursuant thereto, except as otherwise required by this section and sections 115A.11, 115A.28, and 115A.30. The board and agency shall follow the procedures in subdivisions 2 and 3 in lieu of the scoping requirements of chapter 116D and rules issued pursuant thereto. The statement must be completed in two phases as provided in subdivisions 1a and 1b.

**Subd. 1a. Phase I.** Phase I of the statement must be completed by the board on the environmental effects of the decisions that the board is required to make under section 115A.28. Phase I of the statement must not address or reconsider alternatives that have been eliminated from consideration by the board's decisions under sections 115A.201 and 115A.21. The determination of the adequacy of phase I of the statement is exclusively the authority of the board. The governor shall establish an interagency advisory group to comment on the scope of phase I of the statement, to review drafts, and to provide technical assistance in the preparation and review of phase I of the statement. The advisory group must include representatives of the agency, the departments of natural resources, health, agriculture, trade and economic development, and transportation, and the Minnesota geological survey. In order to obtain the staff assistance necessary to prepare the statement, the chair of the board may request reassignment of personnel pursuant to section 116B.37, subdivision 5, and may arrange to have other agencies prepare parts of the statement pursuant to section 116B.37, subdivision 4.

**Subd. 1b. Phase II.** Phase II of the statement must be completed by the agency as a supplement to phase I specifically for the purpose of examining the environmental effects of any permitting decisions that may be required to be made by the permitting agencies under section 115A.291. In preparing, reviewing, and determining the adequacy of phase II of the statement, the agency shall not repeat or duplicate the research and analysis contained in phase I of the statement, unless the agency determines that the information available is not adequate or that additional information is necessary to examine the environmental effects of the permitting decisions. Phase II of the statement may not address or reconsider alternatives that have been eliminated from consideration by the board's decisions under sections 115A.201, 115A.21, and 115A.28. The determination of adequacy of phase II of the statement must be made by the agency within 180 days following submission of the preliminary permit application or applications under section 115A.291. The determination of the adequacy of phase II of the statement is exclusively the authority of the agency.

**Subd. 2. Public disclosure.** Before commencing preparation of a phase of the environmental impact statement, the board or agency shall issue a document summarizing and making full disclosure of the intended objectives and contents of the environmental impact statement and the environmental review. Announcement of the disclosure shall be published in the state register, the environmental quality board monitor, and appropriate newspapers of general distribution. The disclosure shall:

- (a) identify the candidate sites;
- (b) summarize facility specifications and indicate where and when the specifications are available for inspection;
- (c) describe as fully as possible the object of the review, including the significant actions, issues, alternatives, types of impacts, and compensation and mitigation measures expected to be addressed in the statement; the depth of the analysis expected; and subjects which the statement will not address in depth because they have been disposed of previously or because they are believed to be insignificant or remote and speculative;
- (d) identify, by reference and brief summary, any related planning activities and environmental reviews which have been, are being, or will be conducted, and the substantive, chronological, and procedural relationship between the proposed review and the other activities and reviews;
- (e) identify the membership and address of the local project review committees and the names of the local representatives on the board;
- (f) summarize the comments and suggestions received from the public pursuant to subdivision 3 and the board's or agency's response.



Subd. 3. **Public participation procedures.** The public disclosure document shall be issued following diligent effort to involve the public in determining the objective and contents of the environmental impact statement. At least one public meeting shall be held in each county with a candidate site. The advice of the board, facility developers, state agencies, the local project review committees, and local units of government shall be actively solicited. The board or agency may engage the state administrative law judge to conduct meetings and make recommendations concerning the review. Each local project review committee shall present to the board or agency a written report summarizing local concerns and attitudes about the proposed action and the specific issues which the local communities and residents wish to see addressed in the environmental review.

**History:** 1980 c 564 art 3 s 8; 1983 c 289 s 115 subd 1; 1983 c 373 s 26-30; 1984 c 640 s 32; 1984 c 644 s 24-26; 1986 c 444; 1987 c 312 art 1 s 26 subd 2; 1987 c 384 art 2 s 1

### 115A.26 AGENCIES; REPORT ON PERMIT CONDITIONS AND APPLICATION REQUIREMENTS.

Within 30 days following the board's determination of the adequacy of phase I of the environmental impact statement, and after consulting with the board, facility developers, affected local government units, and the local project review committees, the chief executive officer of each permitting state agency shall issue to the board draft reports on permit conditions and permit application requirements at each candidate site. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and requirements of permits, including the types and categories of waste eligible for disposal with or without pretreatment, and the probable supplementary documentation that will be required for phase II of the environmental impact statement under section 115A.25 and for permit applications under section 115A.291. The reports may be revised following the hearings under section 115A.27 as the chief executive officer deems necessary.

**History:** 1980 c 564 art 3 s 9; 1981 c 352 s 21; 1983 c 373 s 31; 1984 c 644 s 27

### 115A.27 HEARINGS.

Subd. 1. [Repealed, 1983 c 373 s 72]

Subd. 2. **Board hearings.** Within 120 days following the board's determination of the adequacy of phase I of the environmental impact statement under section 115A.25, the board shall conduct a hearing in each county containing a candidate site, for the purpose of receiving testimony on the decisions required under section 115A.28. The hearings must be ordered by the chair of the board. The subject of the board hearing may not extend to matters previously decided in the board's decision on sites under sections 115A.201 and 115A.21. The record of the hearings must include the estimate of need for stabilization and containment facilities and the economic feasibility analysis prepared under section 115A.24, the phase I environmental impact statement, and the reports on permit conditions issued under section 115A.26. The hearing must be conducted for the board by the state office of administrative hearings in a manner consistent with the completion of the proceedings in the time allowed. The proceedings and the hearing procedures are not subject to the rulemaking or contested case provisions of chapter 14. The hearing officer may not issue a report but shall preside at the hearings to ensure that the hearings are conducted in a fair, orderly, and expeditious manner and in accordance with the hearing procedures of the board. A majority of the permanent members of the board shall be present at the hearing.

**History:** 1980 c 564 art 3 s 10; 1980 c 615 s 60; 1982 c 424 s 130; 1983 c 373 s 32; 1984 c 644 s 28; 1986 c 425 s 47; 1986 c 444

### 115A.28 FINAL DECISION.

Subdivision 1. **Decision of board.** Within 60 days following the conclusion of the

hearings under section 115A.27, subdivision 2, and after consulting with private facility developers, the permitting agencies, affected local government units, and the local project review committees, the board shall make the decisions as required by this subdivision. If the board decides that a stabilization and containment facility should not be developed in the state, it shall dismiss the candidate sites from further consideration. If the board determines and certifies that a stabilization and containment facility is needed and should be developed in the state, the board shall select a site or sites and specify the number, type, capacity, function, and use of any facilities to be established under sections 115A.18 to 115A.30. Sites that are not selected by the board cease to be candidate sites. If the chair of the board determines that an agency report on permit conditions and application requirements has been substantially revised following hearings held pursuant to section 115A.27, subdivision 2, the chair may delay the decision for 30 days and may order a public hearing to receive further testimony on the sites and facilities to be established. The proceeding must be conducted as provided in section 115A.27, subdivision 2, except that hearings shall not be separately held in the affected counties and the issues relating to all agency reports must be considered at one hearing.

The board may not make any final decision under this subdivision until the board:

(1) determines the current status of and future prospects for the final development of commercial hazardous waste processing facilities in the state based on the responses to the board's requests for proposals, the results of the board's processing facility development grant and loan programs, and any applications which have been filed for processing facility operation permits; and

(2) adjusts the estimate of need prepared under section 115A.24 to reflect the types and quantities of hazardous waste likely to be generated as residuals of processing facilities based on the board's determination under clause (1).

**Subd. 2. Board's decision paramount.** The board's decision under subdivision 1 shall be final and shall supersede and preempt requirements of state agencies and political subdivisions and the requirements of sections 473H.02 to 473H.17; except that a facility established pursuant to the decision shall be subject to terms, conditions, and requirements in permits of state or federal permitting agencies, the terms of lease determined by the board under section 115A.06, subdivision 4, and any requirements imposed pursuant to subdivision 3. Except as otherwise provided in this section, no charter provision, ordinance, rule, permit, or other requirement of any state agency or political subdivision shall prevent or restrict the establishment, operation, expansion, continuance, or closure of a facility in accordance with the final decision and leases of the board and permits issued by state or federal permitting agencies.

**Subd. 3. Local requirements.** A political subdivision may impose reasonable requirements respecting the construction, inspection, operation, monitoring, and maintenance of a facility. Any such requirements shall be subject to review by the board to determine their reasonableness and consistency with the establishment and use of a facility in accordance with the final decision and lease of the board and by the agency to determine their reasonableness and consistency with permits of state and federal permitting agencies. The board or agency may approve, disapprove, suspend, modify, or reverse any such requirements. The decision of the board or agency shall be final.

**History:** 1980 c 564 art 3 s 11; 1981 c 352 s 22; 1983 c 373 s 33-35; 1984 c 644 s 29; 1985 c 248 s 70; 1986 c 425 s 47; 1986 c 444

## 115A.29 RECONCILIATION AND INTERVENTION PROCEDURES.

**Subdivision 1. Reports to legislative commission.** At least 30 days before making final decisions on final site selection and permit application under section 115A.28, the board through its chair may report to the legislative commission describing permit conditions or requirements being considered which are not within the existing authority of the agency or the board or which would require legislation or public financial assistance. The report shall not raise issues previously decided by the board's certification of need. In any such report the chair of the board may request intervention in the review pursuant to subdivisions 2 and 3.

Subd. 2. **Preintervention assessment.** If the legislative commission determines that intervention might be warranted under the terms of subdivision 1, the commission may suspend the review process for up to 60 days to allow a preintervention assessment. The preintervention assessment shall be conducted by an independent, impartial, and qualified public intervenor appointed by the commission with the advice and consent of the parties to the dispute. The intervenor shall report to the commission. The report shall include:

(a) an assessment of whether the dispute is ripe for mediation and whether the parties are willing to mediate;

(b) an assessment of whether, within the terms of subdivision 1, substantive issues exist which were not decided by the certification of need and which cannot be resolved effectively through normal administrative and judicial procedures;

(c) a preliminary definition of the facts and issues in dispute and actions and decisions being considered;

(d) a description of the diverse parties having a legitimate and direct interest in the outcome of the dispute.

Subd. 3. **Suspension of review process; intervention proceeding.** Following the report of the intervenor, the legislative commission may suspend the review process for an additional period not to exceed 90 days for an intervention proceeding. The intervention proceeding shall not consider issues previously decided by the board's certification of need. The intervenor shall be in charge of the intervention proceeding and may call for such participation and establish such procedures as the intervenor deems necessary and appropriate to facilitate agreement. The intervenor shall keep the chair of the legislative commission informed on the progress of the intervention proceeding, particularly with respect to agreements or proposed agreements which may require action or decisions not within the authority of the agency or board, legislative action, or public financial assistance. The intervenor shall make recommendations to the commission respecting any such agreements or proposed agreements. The commission may make recommendations to the intervenor respecting any such agreement or proposed agreement. If the commission approves of an agreement, or a decision based upon an agreement, which requires action or decisions not within the authority of the agency or board, legislative action, or public financial assistance, the commission shall cause the matter and recommendations to be submitted to the legislature for consideration.

**History:** 1980 c 564 art 3 s 12; 1986 c 444

### **115A.291 PERMITS.**

Research and analysis necessary to the permit applications and permit decisions required under this chapter, and the supporting environmental study, must commence immediately following the board's decision to apply for permits under this section. Within 180 days following its decisions under section 115A.28, the board shall conclude its analysis of the financial requirements for the facility and shall decide whether to submit, or cause to be submitted by a developer and operator selected by the board, a preliminary application for permits for a facility or facilities consistent with its decision under section 115A.28. Following review by the permitting agencies and within 60 days following the agency's determination of the adequacy of phase II of the environmental impact statement, the board shall revise the application, or cause it to be revised, in accordance with the recommendations of the permitting agencies. In preparing its revised permit application, the board may amend its facility specifications under section 115A.28, if the board finds and determines, based upon the recommendations of the permitting agencies, that: (a) the amendments are necessary to secure permits for the construction and operation of the proposed facility at the proposed site, and (b) the recommendations and amendments are the result of new information or rules produced after the board's decisions under section 115A.28. Within 210 days following the submission of the revised permit application, the permitting agencies shall issue the necessary permits unless the pollution control agency determines that

the facility or facilities proposed for permitting present environmental problems which cannot be addressed through the imposition of permit conditions. The permits may not allow the use of the facility for stabilization and containment of radioactive waste, as defined by section 116C.71, subdivision 6.

**History:** 1983 c 373 s 36; 1984 c 644 s 30; 1986 c 425 s 47

### 115A.30 JUDICIAL REVIEW.

Any civil action maintained by or against the agency or board under sections 115A.18 to 115A.30 shall be brought in the county where the board is located and shall take precedence over all other matters of a civil nature and be expedited to the maximum extent possible. Any person aggrieved by a decision of the board or an agency under sections 115A.18 to 115A.30 may appeal therefrom within 30 days following all final decisions on the issuance of permits. Any appeal shall be conducted as a review of the administrative record as provided in sections 14.63 to 14.69. No civil action shall be maintained pursuant to section 116B.03 with respect to conduct taken by a person pursuant to any environmental quality standard, limitation, rule, order, license, stipulation agreement or permit issued by the board under sections 115A.18 to 115A.30. Notwithstanding any provision of chapter 116B to the contrary, in any action brought under that chapter with respect to any decision or conduct undertaken by any person or the board or agency pursuant to sections 115A.18 to 115A.30 after the period for appeal under this section has lapsed, the plaintiff shall have the burden of proving that the evidence required under section 116B.10 was not reasonably available within the time provided for appeal. The trial court shall, upon motion of any prevailing nongovernmental party, award costs, disbursements, reasonable attorney's fees, and reasonable expert witness fees, if the court finds the action hereunder was commenced or defended in bad faith or was frivolous.

**History:** 1980 c 564 art 3 s 13; 1982 c 424 s 130; 1983 c 373 s 37; 1985 c 248 s 70; 1987 c 384 art 2 s 1

### 115A.301 INDEMNIFICATION FOR CERTAIN DAMAGES ARISING FROM STABILIZATION AND CONTAINMENT FACILITY.

**Subdivision 1. Indemnification by operator; exceptions.** (a) As a condition of obtaining an agency permit and except as provided in paragraph (b), the operator of a hazardous waste stabilization and containment facility established under sections 115A.18 to 115A.30, upon the acceptance of any hazardous waste for stabilization and containment, shall agree to indemnify any other person for any liability the person may have under chapter 115B as a result of a release or threatened release of hazardous waste from the stabilization and containment facility to the extent of the financial responsibility requirement established in subdivision 2.

(b) The operator is not required to indemnify any person for liability to the extent that:

- (1) the liability is the result of a violation by that person of state or federal law that governs the handling, transportation, or disposal of hazardous substances;
- (2) the liability is the result of a negligent act or omission of that person with respect to the handling, transportation, or disposal of hazardous substances; or
- (3) the liability is one for which a claim has been or may be paid by the Federal Postclosure Liability Fund under United States Code, title 42, section 9607(k).

The operator is not required to indemnify any person for any claim filed more than 30 years after closure of the stabilization and containment facility in accordance with agency rules.

(c) The operator may intervene as of right in any action that may result in a claim for indemnification under this subdivision.

**Subd. 2. Financial responsibility.** (a) As a condition of obtaining a permit to operate a hazardous waste stabilization and containment facility established under sections 115A.18 to 115A.30, the operator shall demonstrate financial responsibility to

pay claims of liability for personal injury, economic loss, response costs, and natural resources damage that the operator may incur as a result of a release or threatened release of a hazardous waste from the facility, including liability for which the operator is required to indemnify other persons under subdivision 1. The amount of the operator's financial responsibility must be at least \$40,000,000.

(b) The agency may require a higher level of financial responsibility as a condition of a permit for a stabilization and containment facility depending upon the size of the facility, the location of the facility, the types of waste that will be accepted at the facility, and other factors affecting the risk of a release and potential liability. The operator may demonstrate financial responsibility by any mechanism approved by the agency's hazardous waste rules. The operator shall maintain financial responsibility as provided in this subdivision during operation of the facility and until 30 years after facility closure in accordance with agency rules, provided that the operator shall maintain financial responsibility after 30 years in the amount and for the time necessary to satisfy any outstanding claims filed within 30 years after facility closure.

**Subd. 3. Liability trust fund.** (a) A state facility liability trust fund is established as an account in the state treasury. Money in the fund shall be held in trust by the state to pay claims of liability resulting from the release or threatened release of hazardous waste from a disposal facility established under sections 115A.18 to 115A.30, and to purchase insurance to pay the claims. Subject to the limitations provided in paragraph (b), the fund and insurance purchased by the fund shall pay claims to the extent that the claims are not satisfied by the operator of the facility under subdivision 1, by the Federal Postclosure Liability Fund under United States Code, title 42, section 9607(k), or by any person, including the operator, who is liable for the claim as a result of violation of a state or federal law or a negligent act or omission.

(b) The state is not obligated to pay any claims in excess of the amount of money in the fund and the limits of any insurance purchased by the fund.

(c) Interest earned by the money in the fund must be credited to the fund.

**Subd. 4. Determination of amounts in fund.** The board shall determine the amount of money that will be needed in the state facility liability trust fund to maintain insurance coverage for each facility of at least \$10,000,000 during the operating life of the facility and to accumulate a balance of at least \$10,000,000 within 20 years after the facility begins operation. The board may require insurance coverage and accumulation of a fund balance in amounts greater than those provided in this subdivision based upon the factors that the agency must consider in establishing the level of financial responsibility under subdivision 2 and the amount of claims for which the fund is likely to be liable under subdivision 3. Based on the amounts required to purchase insurance and accumulate the fund balance, the board shall establish a surcharge amount to be collected under subdivision 5. The board may adjust the amount of the surcharge based on the actual quantities of waste received at the facility. Determinations by the board under this subdivision are subject to the rulemaking provisions of chapter 14.

**Subd. 5. Stabilization and containment surcharge.** A surcharge must be paid for every ton or part of a ton of hazardous waste accepted for stabilization and containment at a facility. The operator shall collect and hold the surcharge in a separate account. By the first day of each month, the operator shall pay any money in this account to the commissioner of finance for credit to the state facility liability trust fund.

**Subd. 6. Administration.** (a) The commissioner of finance shall administer the state facility liability trust fund. Money in the fund is appropriated to the commissioner of finance for expenditure as provided in subdivision 3. The commissioner shall establish separate accounts in the fund for purchase of insurance and for accumulation of a fund balance as required by the board under subdivision 4. After closure of the facility in accordance with agency rules, the commissioner shall consolidate the two accounts and may use any interest income from the fund to purchase insurance to pay claims for which the fund may be liable.

(b) The commissioner, in consultation with the attorney general, may settle any claims that the fund may be required to pay. If two or more claims are made against

the fund, the amount of which would exceed the amount in the fund, the commissioner shall pay any valid claims on a pro rata basis. The commissioner, on behalf of the fund, may intervene as of right in an action that may result in a claim against the fund.

**Subd. 7. Rights preserved.** Nothing in this section affects the right of any person to bring an action under any law to recover costs or damages arising out of the release or threatened release of a hazardous substance from a disposal facility established under sections 115A.18 to 115A.30. Any costs or damages recoverable in such an action shall be reduced to the extent that the costs or damages have been paid under subdivisions 1 to 3.

**History:** 1984 c 644 s 31; 1986 c 425 s 47

## REVIEW OF CERTAIN WASTE FACILITIES

### 115A.32 RULES.

The board shall promulgate rules pursuant to chapter 14 to govern its activities under sections 115A.32 to 115A.39.

**History:** 1980 c 564 art 4 s 1; 1982 c 424 s 130

### 115A.33 ELIGIBILITY; REQUEST FOR REVIEW.

The following persons shall be eligible to request supplementary review by the board pursuant to sections 115A.32 to 115A.39: (a) a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment; (b) a political subdivision which has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility which is no larger than 250 acres, not including any proposed buffer area, and located outside the metropolitan area; (c) a generator of hazardous waste within the state who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only; (d) a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included in the board's inventory of preferred sites for such facilities adopted pursuant to section 115A.09; (e) a person who has been issued permits by the agency for a disposal facility for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous waste processing facility operated by the person. The metropolitan waste control commission shall not be eligible to request review under clause (a) for a sewage sludge disposal facility. The metropolitan waste control commission shall not be eligible to request review under clause (a) for a solid waste facility with a proposed permitted life of longer than four years. The board may require completion of a plan conforming to the requirements of section 115A.46, before granting review under clause (b). A request for supplementary review shall show that the required permits for the facility have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility.

**History:** 1980 c 564 art 4 s 2; 1981 c 352 s 23

### 115A.34 APPOINTMENT OF TEMPORARY BOARD MEMBERS.

Within 45 days of the submission of a request determined by the board to satisfy the requirements for review under sections 115A.32 to 115A.39, temporary board members shall be added to the board for the purpose of the supplementary review. Three members shall be selected by the governing body of the city or town in which the chair of the waste management board determines the facility would be principally located, and three members shall be selected by the governing body of the county in which the chair of the waste management board determines the proposed facility would be principally located. If the proposed facility is located in unorganized territory, all six members shall be selected by the governing board of the county. Temporary

members shall be residents of the county in which the proposed facility would be located and shall be selected to represent broadly the local interests that would be directly affected by the proposed facility. At least one member appointed by the city or town shall live within one mile of the proposed facility, and at least one member appointed by the county shall be a resident of a city or town in which the proposed facility would be located. If the appointing authority fails to appoint temporary board members in the period allowed, the governor shall appoint the temporary members to represent the local interests in accordance with this section. Temporary board members shall serve for terms lasting until the board has taken final action on the facility.

**History:** 1980 c 564 art 4 s 3; 1981 c 352 s 24; 1986 c 444

#### **115A.35 REVIEW PROCEDURE.**

The board shall meet to commence the supplementary review within 90 days of the submission of a request determined by the board to satisfy the requirements for review under this section. At the meeting commencing the review the chair shall recommend and the board establish a scope and procedure, in accordance with the rules of the board, for review and final decision on the proposed facility. The procedure shall require the board to make a final decision on the proposed facility within 90 days following the commencement of review. The procedure shall require the board to hold, at the call of the chair, at least one public hearing in the county within which the proposed facility would be located. A majority of permanent members of the board shall be present at the hearing. The hearing shall be conducted for the board by the state office of administrative hearings in a manner determined by the administrative law judge to be consistent with the expeditious completion of the proceedings as required by sections 115A.32 to 115A.39. The hearing shall not be deemed a contested case under chapter 14. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the meeting. The notice shall describe the proposed facility, its location, the permits, and the board's scope and procedure for review. The notice shall identify a location or locations within the city or town and county where the permit applications, the agency permits, and the board's scope and procedure for review are available for review and where copies may be obtained.

**History:** 1980 c 564 art 4 s 4; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32; 1986 c 444

#### **115A.36 SCOPE AND CONTENT OF REVIEW.**

In its review and final decision on the proposed facility, the board shall consider at least the following matters:

(a) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to the facility, water, air, and land pollution, and fire or explosion where appropriate, and the degree to which the risk or effect may be alleviated;

(b) the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(c) the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate the adverse effects by additional stipulations, conditions, and requirements respecting the proposed facility at the proposed site;

(d) the need for the proposed facility, especially its contribution to abating solid and hazardous waste disposal, the availability of alternative sites, and opportunities to mitigate or eliminate need by additional and alternative waste management strategies or actions of a significantly different nature;

(e) whether, in the case of solid waste resource recovery facilities, the applicant has considered the feasible and prudent waste processing alternatives for accomplishing the

purposes of the proposed project and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

**History:** 1980 c 564 art 4 s 5

### 115A.37 FINAL DECISION OF BOARD.

**Subdivision 1. Approval or disapproval.** In its final decision on the proposed facility, the board may either approve or disapprove the proposed facility at the proposed site. The board's approval shall embody all terms, conditions, and requirements of the permitting agencies, provided that the board may: (a) finally resolve any conflicts between state agencies regarding permit terms, conditions, and requirements, and (b) require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site. The board's resolution of conflicts under clause (a) shall be in favor of the more stringent terms, conditions, and requirements.

**Subd. 2. Decision paramount.** The decision of the board to approve a facility shall be final and shall supersede and preempt requirements of state agencies and political subdivisions and the requirements of sections 473H.02 to 473H.17; except that the facility shall be subject to those terms, conditions, and requirements of permitting agencies embodied in the board's approval and any requirements imposed pursuant to subdivision 3. The permitting agencies shall issue or amend the permits for the facility within 60 days following and in accordance with the final decision of the board, and all permits shall conform to the terms, conditions, and requirements of the board's decision. No charter provision, ordinance, rule, permit, or other requirement of any state agency or political subdivision shall prevent or restrict the establishment, operation, expansion, continuance, or closure of the facility in accordance with the final decision of the board and permits issued pursuant thereto.

**Subd. 3. Local requirements.** A political subdivision may impose reasonable requirements respecting the construction, inspection, operation, monitoring, and maintenance of a facility. Any such requirements shall be subject to review by the agency to determine their reasonableness and consistency with the establishment and use of a facility in accordance with the final decision of the board and permits issued pursuant thereto. The agency may approve, disapprove, suspend, modify, or reverse any such requirements. The decision of the agency shall be final.

**History:** 1980 c 564 art 4 s 6; 1981 c 352 s 25; 1985 c 248 s 70

### 115A.38 RECONCILIATION PROCEDURES.

**Subdivision 1. Reports to legislative commission.** At least 30 days before making a final decision under section 115A.37 in a review brought pursuant to section 115A.33, clause (d), the board through its chair may report to the legislative commission describing permit conditions or requirements being considered which are not within the existing authority of the agency or the board or which would require legislation or public financial assistance. In any such report the chair of the board may request intervention in the review pursuant to subdivisions 2 and 3.

**Subd. 2. Preintervention assessment.** If the legislative commission determines that intervention might be warranted under the terms of subdivision 1, the commission may suspend the review process for up to 60 days to allow a preintervention assessment. The preintervention assessment shall be conducted by an independent, impartial, and qualified public intervenor appointed by the commission with the advice and consent of the parties to the dispute. The intervenor shall report to the commission. The report shall include:

(a) an assessment of whether the dispute is ripe for mediation and whether the parties are willing to mediate;

(b) an assessment of whether, within the terms of subdivision 1, substantive issues exist which cannot be resolved effectively through normal administrative and judicial procedures;



(c) a preliminary definition of the facts and issues in dispute and actions and decisions being considered;

(d) a description of the diverse parties having a legitimate and direct interest in the outcome of the dispute.

**Subd. 3. Suspension of review process; intervention proceeding.** Following the report of the intervenor, the legislative commission may suspend the review process for an additional period not to exceed 90 days for an intervention proceeding. The intervenor shall be in charge of the intervention proceeding and may call for such participation and establish such procedures as the intervenor deems necessary and appropriate to facilitate agreement. The intervenor shall keep the chair of the legislative commission informed on the progress of the intervention proceeding, particularly with respect to agreements or proposed agreements which may require action or decisions not within the authority of the agency or board, legislative action, or public financial assistance. The intervenor shall make recommendations to the commission respecting any such agreements or proposed agreements. The commission may make recommendations to the intervenor respecting any such agreement or proposed agreement. If the commission approves of an agreement, or a decision based upon an agreement, which requires action or decisions not within the authority of the agency or board, legislative action, or public financial assistance, the commission shall cause the matter and recommendations to be submitted to the legislature for consideration.

**History:** 1980 c 564 art 4 s 7; 1986 c 444

#### 115A.39 JUDICIAL REVIEW.

Judicial review with respect to conduct or decisions in supplementary reviews brought pursuant to section 115A.33, clause (c) or (d), shall be as provided in section 115A.30.

**History:** 1980 c 564 art 4 s 8

#### 115A.41 [Repealed, 1988 c 685 s 44]

#### 115A.411 SOLID WASTE MANAGEMENT POLICY; CONSOLIDATED REPORT.

**Subdivision 1. Authority; purpose.** The board and the agency shall jointly prepare and adopt a report on solid waste management policy excluding the metropolitan area. The report must be adopted by November 15 of each even-numbered year beginning in 1988. The report must be submitted by the board and the agency jointly to the legislative commission on waste management.

**Subd. 2. Contents.** The report must include:

(1) a summary of the current status of solid waste management, including the amount of solid waste generated, the manner in which it is collected, processed, and disposed, the extent of separation, recycling, reuse, and recovery of solid waste, and the facilities available or under development to manage the waste;

(2) a summary of current state solid waste management policies, goals, and objectives, including their statutory, administrative, and regulatory basis and the state agencies and political subdivisions responsible for implementation;

(3) an evaluation of the extent and effectiveness of implementation and an assessment of progress in accomplishing state policies, goals, and objectives;

(4) estimates of the generation of solid waste anticipated for the future, the manner in which the waste is likely to be managed, and the programs and facilities that will be available and needed for proper waste management;

(5) identification of issues requiring further research, study, and action, the appropriate scope of the research, study, or action, the state agency or political subdivision that should implement the research, study, or action, and a schedule for completion of the activity; and

(6) recommendations for establishing or modifying state solid waste management policies, authorities, and programs.

**History:** 1987 c 348 s 14

**SOLID WASTE MANAGEMENT ASSISTANCE****115A.42 ESTABLISHMENT AND ADMINISTRATION.**

There is established a program to encourage and improve regional and local solid waste management planning activities and efforts and to further the state policies and purposes expressed in section 115A.02. The program under sections 115A.42 to 115A.46 is administered by the board pursuant to rules promulgated under chapter 14, except in the metropolitan area where the program is administered by the metropolitan council pursuant to chapter 473. The board and the metropolitan council shall ensure conformance with federal requirements and programs established pursuant to the Resource Conservation and Recovery Act of 1976 and amendments thereto.

**History:** 1980 c 564 art 5 s 1; 1982 c 424 s 130; 1982 c 569 s 12; 1987 c 348 s 15; 1987 c 404 s 137

**115A.43** [Repealed, 1987 c 348 s 52]

**115A.44** [Repealed, 1987 c 348 s 52]

**NOTE:** This section was also amended by Laws 1987, chapter 404, section 138, to read as follows:

"115A.44 **Financial assistance.**

Eligible recipients may receive grants for up to 50 percent of the cost of the planning activity, except that planning by a regional development commission and joint planning by two or more contiguous counties or political subdivisions located in two or more contiguous counties may receive grants for up to 100 percent of the cost of the planning activity. Financial assistance provided under the program may be used to employ staff, contract with other units of government or qualified consultants, and pay such other planning expenses as the board or metropolitan council may allow."

**115A.45 TECHNICAL ASSISTANCE.**

The board and metropolitan council shall provide for technical assistance to encourage and improve solid waste management and to assist political subdivisions in preparing the plans described in section 115A.46. The board and metropolitan council shall provide model plans for regional and local solid waste management. The board and metropolitan council may contract for the delivery of technical assistance by a regional development commission, any state or federal agency, private consultants, or other persons. The board shall prepare and publish an inventory of sources of technical assistance for solid waste planning, including studies, publications, agencies, and persons available.

**History:** 1980 c 564 art 5 s 4; 1987 c 348 s 16; 1987 c 404 s 139

**115A.46 REQUIREMENTS.**

**Subdivision 1. General.** Plans shall address the state policies and purposes expressed in section 115A.02. Plans for the location, establishment, operation, maintenance, and postclosure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116. Plans shall address the resolution of conflicting, duplicative, or overlapping local management efforts. Plans shall address the establishment of joint powers management programs or waste management districts where appropriate. Plans shall address other matters as the rules of the board may require consistent with the purposes of sections 115A.42 to 115A.46. Political subdivisions preparing plans under sections 115A.42 to 115A.46 shall consult with persons presently providing solid waste collection, processing, and disposal services. Plans shall be approved by the board, or the metropolitan council pursuant to section 473.803. After initial approval, each plan shall be updated every five years and revised as necessary for further approval.

**Subd. 2. Contents.** The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems. The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices.

The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste. The plans shall address at least waste reduction, separation, and resource recovery, and shall include objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall include a comparison of the costs of the activities to be undertaken, including capital and operating costs, and the effects of the activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established. The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable. The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

Subd. 3. [Repealed, 1984 c 644 s 82]

**History:** 1980 c 564 art 5 s 5; 1982 c 569 s 13; 1984 c 644 s 32,33; 1987 c 404 s 140

#### **115A.48 MARKET DEVELOPMENT FOR RECYCLABLE MATERIALS AND COMPOST.**

**Subdivision 1. Authority.** The board shall assist and encourage the development of specific facilities, services, and uses needed to provide adequate, stable, and reliable markets for recyclable materials and compost generated in the state. In carrying out this duty the board shall coordinate and cooperate with the solid waste management efforts of other public agencies and political subdivisions.

**Subd. 2. Facility development proposals.** In order to determine the feasibility and method of developing and operating specific types of facilities and services to use recyclable materials and compost generated in the state, the board shall request proposals from and may make grants to persons seeking to develop or operate the facilities or services. Grants may be made for the purposes in section 115A.156, subdivision 1, clauses (1) to (6). A grant must be matched by money or in-kind services provided by the grantee covering at least 50 percent of the project cost. In requesting proposals under this section the board shall follow the procedures provided in section 115A.158, subdivisions 1 and 2, as far as practicable.

**Subd. 3. Public procurement.** The board shall provide technical assistance and advice to political subdivisions and other public agencies to encourage solid waste reduction and development of markets for recyclable materials and compost through procurement policies and practices.

**History:** 1987 c 348 s 17; 1988 c 685 s 11

**115A.49 ESTABLISHMENT; PURPOSES AND PRIORITIES.**

There is established a program to encourage and assist cities, counties, solid waste management districts, and sanitary districts in the development and implementation of solid waste management projects and to transfer the knowledge and experience gained from such projects to other communities in the state. The program must be administered to encourage local communities to develop feasible and prudent alternatives to disposal, including waste reduction; waste separation by generators, collectors, and other persons; and waste processing. The program must be administered by the board in accordance with the requirements of sections 115A.49 to 115A.54 and rules promulgated by the board pursuant to chapter 14. In administering the program, the board shall give priority to areas where natural geologic and soil conditions are especially unsuitable for land disposal of solid waste; areas where the capacity of existing solid waste disposal facilities is determined by the board to be less than five years; and projects serving more than one local government unit.

*History: 1980 c 564 art 6 s 1; 1982 c 424 s 130; 1Sp1985 c 15 s 32; 1987 c 348 s 18; 1987 c 404 s 141; 1988 c 524 s 2*

**115A.50 ELIGIBLE RECIPIENTS.**

Eligible recipients for assistance under the program shall be limited to cities, counties, solid waste management districts established pursuant to sections 115A.62 to 115A.72, and sanitary districts. Eligible recipients may apply for assistance under sections 115A.52 and 115A.53 on behalf of other persons.

*History: 1980 c 564 art 6 s 2; 1988 c 524 s 3*

**115A.51 APPLICATION REQUIREMENTS.**

Applications for assistance under the program shall demonstrate: (a) that the project is conceptually and technically feasible; (b) that affected political subdivisions are committed to implement the project, to provide necessary local financing, and to accept and exercise the government powers necessary to the project; (c) that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources, together with any proposed federal, state, or local financial assistance, will be sufficient to pay all costs over the projected life of the project; (d) that the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators. The board may require completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, before accepting an application.

*History: 1980 c 564 art 6 s 3; 1987 c 348 s 19; 1987 c 404 s 142*

**115A.52 TECHNICAL ASSISTANCE FOR PROJECTS.**

The board shall ensure the delivery of technical assistance for projects eligible under the program. The board may contract for the delivery of technical assistance by any state or federal agency, a regional development commission, the metropolitan council, or private consultants and may use program funds to reimburse the agency, commission, council, or consultants. The board shall prepare and publish an inventory of sources of technical assistance, including studies, publications, agencies, and persons available. The board shall ensure statewide benefit from projects assisted under the program by developing exchange and training programs for local officials and employees and by using the experience gained in projects to provide technical assistance and education for other solid waste management projects in the state.

*History: 1980 c 564 art 6 s 4; 1Sp1985 c 15 s 33; 1987 c 348 s 20; 1987 c 404 s 143*

**115A.53 WASTE REDUCTION AND SEPARATION PROJECTS.**

The board shall provide grants to develop and implement projects for waste reduction; waste separation by generators, collectors, and other persons; and collection

systems for separated waste. Activities eligible for assistance under this section include legal, financial, economic, educational, marketing, social, governmental, and administrative activities related to the development and implementation of the project. Preliminary planning and development, feasibility study, and conceptual design costs are eligible activities, but no more than 20 percent of program funds shall be used to fund those activities. Projects may include the management of household hazardous waste, as defined in section 115A.96. The rules of the board shall prescribe the level or levels of local funding required for grants under this section.

**History:** 1980 c 564 art 6 s 5; 1987 c 348 s 21; 1987 c 404 s 144

#### 115A.54 WASTE PROCESSING FACILITIES.

**Subdivision 1. Purposes; public interest; declaration of policy.** The legislature finds that the establishment of waste processing facilities and transfer stations serving such facilities is needed to manage properly the solid waste generated in the state and to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens; that opportunities to establish the facilities and transfer stations are not being fully realized by individual political subdivisions or by agreements among subdivisions; and that therefore it is necessary to provide capital assistance to stimulate and encourage the acquisition and betterment of the facilities and transfer stations.

**Subd. 2. Administration; assurance of funds.** The board shall provide technical and financial assistance for the acquisition and betterment of the facilities and transfer stations from revenues derived from the issuance of bonds authorized by section 115A.58. Facilities for the incineration of solid waste without resource recovery are not eligible for assistance. Money appropriated for the purposes of the demonstration program may be distributed as grants or loans. An individual project may receive assistance totaling up to 100 percent of the capital cost of the project and grants up to 50 percent of the capital cost of the project. No grant or loan shall be disbursed to any recipient until the board has determined the total estimated capital cost of the project and ascertained that financing of the cost is assured by funds provided by the state, by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state, by any person, or by the appropriation of proceeds of bonds or other funds of the recipient to a fund for the construction of the project.

**Subd. 2a. Solid waste management projects.** (a) The board shall provide technical and financial assistance for the acquisition and betterment of solid waste management projects as provided in this subdivision and section 115A.52. Money appropriated for the purposes of this subdivision must be distributed as grants.

(b) Except as provided in paragraph (c), a project may receive grant assistance up to 25 percent of the capital cost of the project or \$2,000,000, whichever is less.

(c) A recycling project or a project to compost or co-compost waste may receive grant assistance up to 50 percent of the capital cost of the project or \$2,000,000, whichever is less.

(d) Projects without resource recovery are not eligible for assistance.

(e) In addition to any assistance received under clause (b) or (c), a project may receive grant assistance for the cost of tests necessary to determine the appropriate pollution control equipment for the project or the environmental effects of the use of any product or material produced by the project.

(f) In addition to the application requirements of section 115A.51, an application for a project serving eligible jurisdictions in only a single county must demonstrate that cooperation with jurisdictions in other counties to develop the project is not needed or not feasible. Each application must also demonstrate that the project is not financially prudent without the state assistance, because of the applicant's financial capacity and the problems inherent in the waste management situation in the area, particularly transportation distances and limited waste supply and markets for resources recovered.

(g) For the purposes of this subdivision, a "project" means a processing facility, together with any transfer stations, transmission facilities, and other related and appurtenant facilities primarily serving the processing facility. The board shall adopt rules for the program by July 1, 1985.

**Subd. 3. Obligations of recipient.** No grant or loan for any project shall be disbursed until the governing body of the recipient has made an irrevocable undertaking, by resolution, to use all funds made available exclusively for the capital cost of the project and to pay any additional amount by which the cost of the project exceeds the estimate by appropriation to the construction fund of additional funds or proceeds of additional bonds of the recipient. The resolution shall also indicate that any subsequent withdrawal of allocated or additional funds of the recipient will impair the obligation of contract between the state of Minnesota, the recipient, and the bondholders. The resolution shall pledge payment to the debt service account of all revenues of the project to the extent that they exceed costs and shall also obligate the recipient to levy a tax sufficient to make timely payments under the loan agreement, if a deficiency occurs in the amount of user charges, taxes, special assessments, or other money pledged for payment under the loan agreement. Each loan made to a recipient shall be secured by resolutions adopted by the board and the governing body of the recipient, obligating the recipient to repay the loan to the state treasurer in annual installments including both principal and interest. Installments shall be in an amount sufficient to pay the principal amount within the period required by the board. The interest on the loan shall be calculated on the declining balance at a rate not less than the average annual interest rate on the state bonds of the issue from which proceeds of the loan were made. The resolution shall obligate the recipient to provide money for the repayment from user charges, taxes, special assessments or any other funds available to it.

**History:** 1980 c 564 art 6 s 6; 1981 c 352 s 26; 1983 c 373 s 38; 1985 c 274 s 5; 1Sp1985 c 15 s 34; 1987 c 348 s 22

#### **115A.541 PLAN; GRANT REQUIREMENT.**

The board may approve a plan under section 115A.46 or make a grant for a recycling facility under section 115A.54, subdivision 2a, only if it finds that the applicant demonstrates a commitment to recycle materials separated by generators to the extent the program is cost-effective in meeting recycling goals.

**History:** 1988 c 685 s 12

#### **115A.57 WASTE MANAGEMENT FUND.**

**Subdivision 1. Creation; receipts.** The commissioner of finance shall maintain a Minnesota state waste management fund. The fund shall receive the proceeds of state bonds and other money appropriated to the fund and disburse money for the acquisition of real property and interests in real property for hazardous waste facility sites and surrounding buffer areas, as authorized by section 115A.06, subdivision 4, and money to be granted or loaned to political subdivisions pursuant to the waste processing facility capital assistance program created by section 115A.54. The commissioner of finance and state treasurer shall deposit in the fund as received (a) all proceeds of Minnesota state waste management bonds, except accrued interest and premiums received upon the sale of the bonds; (b) all other money appropriated by law for purposes stated in sections 115A.57 to 115A.59, and (c) all money granted to the state for those purposes by the federal government or any agency thereof. All the receipts are annually appropriated for the purposes of the fund, and shall remain available until expended.

**Subd. 2. Disbursements.** Disbursements from the fund shall be made at the times and in the amounts authorized by the board in accordance with applicable state laws and the board's rules.

**History:** 1980 c 564 art 7 s 1

**115A.58 MINNESOTA STATE WASTE MANAGEMENT BONDS.**

**Subdivision 1. Authority to issue bonds.** The commissioner of finance shall sell bonds of the state of Minnesota for the prompt and full payment of which, together with interest, the full faith, credit, and taxing powers of the state are irrevocably pledged. Bonds shall be sold only upon request of the board and in the amount as may otherwise be authorized by this or a subsequently enacted law which authorizes the sale of additional bonds and the deposit of the proceeds in the state waste management fund. Any authorized amount of bonds in this law or any subsequently enacted law authorizing the issuance of bonds for the purposes of the state waste management fund, together with this section, constitute complete authority for the issue. The bonds shall not be subject to restrictions or limitations contained in any other law.

**Subd. 2. Issuance of bonds.** Upon request by the board and upon authorization as provided in subdivision 1, the commissioner of finance shall sell Minnesota state waste management bonds. The bonds shall be in the aggregate amount requested, and sold upon sealed bids upon the notice, at the price in the form and denominations, bearing interest at the rate or rates, maturing in the amounts and on the dates (with or without option of prepayment upon notice and at specified times and prices), payable at a bank or banks within or outside the state (with provisions, if any, for registration, conversion, and exchange and for the issuance of temporary bonds or notes in anticipation of the sale or delivery of definitive bonds), and in accordance with further provisions as the commissioner of finance shall determine, subject to the approval of the attorney general, but not subject to the provisions of sections 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.62. The bonds shall be executed by the commissioner of finance and attested by the state treasurer under their official seals. The signatures of the officers on the bonds and any interest coupons and their seals may be printed, lithographed, engraved, stamped, or otherwise reproduced thereon, except that each bond shall be authenticated by the manual signature on its face of one of the officers or of an authorized representative of a bank designated by the commissioner of finance as registrar or other authenticating agent. The commissioner of finance shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

**Subd. 3. Expenses.** All expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for these purposes, and any expenses of litigation relating to the validity of the bonds, shall be paid from the waste management fund, and the amounts necessary are appropriated from that fund.

**Subd. 4. Debt service account in the state waste management fund.** The commissioner of finance shall maintain in the Minnesota state waste management fund a separate account to be called the state waste management debt service account. It shall record receipts of premium and accrued interest, loan repayments, project revenue or other money transferred to the fund and income from the investment of the money and record any disbursements to pay the principal and interest on waste management bonds. Income from investment shall be credited to the account in each fiscal year. The amount credited shall be equal to the average return that year on all funds invested by the state treasurer, as determined by the treasurer, times the average balance in the account that year.

**Subd. 5. Appropriations to debt service account; appropriation from account to pay debt service.** The premium and accrued interest received on each issue of Minnesota state waste management bonds, and all payments received in repayment of loans and other revenues received are appropriated to the debt service account. All income from the investment of the Minnesota state waste management fund is appropriated to the debt service account. In order to reduce the amount of taxes otherwise required to be levied, there is also appropriated to the debt service account from any funds available in the general fund on November 1 in each year, a sum of money sufficient in amount,

when added to the balance then on hand, to pay all principal and interest on Minnesota waste management bonds due and to become due before July 1 in the second ensuing year. So much of the debt service account of the state waste management fund as is necessary to pay principal and interest on waste management bonds is annually appropriated from the debt service account for the payment of principal and interest of the waste management bonds. All funds appropriated by this subdivision shall be available in the debt service account prior to any levy of the tax in any year required by the Minnesota Constitution, article XI, section 7.

**Subd. 6. Security.** On or before December 1 in each year the state auditor shall levy on all taxable property within the state whatever tax may be necessary to produce an amount sufficient, with all money currently credited to the debt service account, to pay the entire amount of principal and interest currently due and the principal and interest to become due before July 1 in the second year thereafter on Minnesota waste management bonds. This tax shall be subject to no limitation of rate or amount until all the bonds and interest thereon are fully paid. The proceeds of this tax are appropriated to the debt service account. The principal of and interest on the bonds are payable from the proceeds of this tax.

**History:** 1980 c 564 art 7 s 2; 1982 c 424 s 130; 1983 c 301 s 110; 1Sp1985 c 14 art 4 s 13

#### **115A.59 BOND AUTHORIZATION AND APPROPRIATION OF PROCEEDS.**

The commissioner of finance is authorized, upon request of the board, to sell Minnesota state waste management bonds in the amount of up to \$8,800,000 for the purpose of the waste processing facility capital assistance program under section 115A.54, and in the amount of up to \$6,200,000 for the purpose of acquiring real property and interests in real property for hazardous waste facility sites and buffer areas as authorized by section 115A.06, subdivision 4. The bonds shall be sold in the manner and upon the conditions prescribed in section 115A.58, and in the Minnesota Constitution, article XI, sections 4 to 7. The proceeds of the bonds, except as provided in section 115A.58, subdivision 5, are appropriated to the Minnesota state waste management fund. The amount of bonds issued pursuant to this authorization shall not exceed at any time the amount needed to produce a balance in the waste management fund equal to the aggregate amount of the loans and grants then approved and not previously disbursed, plus the amount of the loans and grants to be approved in the current and the following fiscal year, as estimated by the board.

**History:** 1980 c 564 art 7 s 3

### **SOLID WASTE MANAGEMENT DISTRICTS**

#### **115A.62 PURPOSE; PUBLIC INTEREST; DECLARATION OF POLICY.**

The legislature finds that the development of integrated and coordinated solid waste management systems is needed to manage properly the solid waste generated in the state, to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens, and to further the state policies and purposes expressed in section 115A.02; that this need cannot always be met solely by the activities of individual political subdivisions or by agreements among subdivisions; and that therefore it is necessary to establish a procedure for the creation of solid waste management districts having the powers and performing the functions prescribed in sections 115A.62 to 115A.72.

**History:** 1980 c 564 art 8 s 1; 1982 c 569 s 14

#### **115A.63 SOLID WASTE MANAGEMENT DISTRICTS.**

**Subdivision 1. Legal status.** Solid waste management districts established pursuant to sections 115A.62 to 115A.72 shall be public corporations and political subdivisions of the state.



**Subd. 2. Establishment by board.** The board may establish waste districts as public corporations and political subdivisions of the state, define the powers of such districts in accordance with sections 115A.62 to 115A.72, define and alter the boundaries of the districts as provided in section 115A.64, and terminate districts as provided in section 115A.66. The board shall promulgate rules pursuant to chapter 14 governing the establishment, alteration, and termination of districts.

**Subd. 3. Restrictions.** No waste district shall be established within the boundaries of the Western Lake Superior Sanitary District established by Laws 1971, chapter 478, as amended. No waste district shall be established wholly within one county. The board shall not establish a waste district within or extending into the metropolitan area, nor define or alter the powers or boundaries of a district, without the approval of the metropolitan council. The council shall not approve a district unless the articles of incorporation of the district require that the district will have the same procedural and substantive responsibilities, duties, and relationship to the metropolitan agencies as a metropolitan county. The board shall not establish a district unless the petitioners demonstrate that they are unable to fulfill the purposes of a district through joint action under section 471.59. The board shall require the completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, by petitioners seeking to establish a district.

*History: 1980 c 564 art 8 s 2; 1982 c 424 s 130*

#### **115A.64 PROCEDURE FOR ESTABLISHMENT AND ALTERATION.**

**Subdivision 1. Local petition.** Waste districts shall be established and their powers and boundaries defined or altered by the board only after petition requesting the action jointly submitted by the governing bodies of petitioners comprising at least one-half of the counties partly or wholly within the district. A petition for alteration shall include a resolution by the board of directors of the district approving the alteration.

**Subd. 2. Petition contents.** A petition requesting establishment or alteration of a waste district shall contain the information the board may require, including at least the following:

- (a) the name of the proposed district;
- (b) a description of the territory and political subdivisions within and the boundaries of the proposed district or alteration thereto, along with a map showing the district or alteration;
- (c) resolutions of support for the district, as proposed to the board, from the governing body of each of the petitioning counties;
- (d) a statement of the reason, necessity, and purpose for the district, plus a general description of the solid waste management improvements and facilities contemplated for the district showing how its activities will accomplish the purpose of the district and the purposes for waste resource districts stated in sections 115A.62 to 115A.72;
- (e) articles of incorporation stating the powers of the district consistent with sections 115A.62 to 115A.72, including a statement of powers proposed pursuant to sections 115A.70 and 115A.71.

After the petition has been filed, no petitioner may withdraw from it except with the written consent of all other petitioners filed with the board.

**Subd. 3. Local review and comment.** At least 60 days before submitting the petition to the board, the petitioners shall publish notice of the petition in newspapers of general circulation in the proposed district and shall cause a copy of the petition to be served upon the agency, the governing body of each political subdivision which is wholly or partly within the proposed district or is affected by the proposed alteration and each regional development commission affected by the proposed district or alteration. Each entity receiving service shall have 60 days within which to comment to the petitioners on the petition and the proposed district or alteration. Proof of service, along with any comments received, shall be attached to the petition when it is submitted to the board.

**Subd. 4. Review procedures.** Upon receipt of the petition, the chair of the board shall determine whether the petition conforms in form and substance to the requirements of law and rule. If the petition does not conform to the requirements, the chair shall return it immediately to the petitioners with a statement describing the deficiencies and the amendments necessary to rectify them. If the petition does conform to the requirements, and if comments have been received objecting to the establishment or alteration of the district as proposed, the chair shall request the office of administrative hearings to conduct a hearing on the petition. The hearing shall be conducted in the proposed district in the manner provided in chapter 14 for contested cases. If no comments have been received objecting to the establishment of the district as proposed, the board may proceed to grant or deny the petition without the necessity of conducting a contested case hearing. If the petition conforms to the requirements of law and rule, the chair shall also immediately submit the petition to the solid waste and the technical advisory councils of the board for review and recommendation and shall forward the petition to the commissioner of the agency, who shall prepare and submit to the board a report containing recommendations on the disposition of the petition. The commissioner's report shall contain at least the commissioner's findings and conclusions on whether the proposed boundaries, purposes, powers, and management plans of the district or alteration thereto serve the purposes of waste resource districts, are appropriately related to the waste generation, collection, processing, and disposal patterns in the area, and are generally consistent with the purposes of the agency's regulatory program.

**Subd. 5. Corrections allowed.** No petition submitted by the requisite number of counties shall be void or dismissed on account of defects exposed in the hearing documents or report. The board shall permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or any other defects.

**Subd. 6. Board order.** After considering the reports of the administrative law judge, if a contested case hearing has been held, and the recommendations of the advisory councils commissioner of the agency, the board shall make a final decision on the petition. If the board finds and determines that the establishment or alteration of a district as proposed in the petition would not be in the public interest and would not serve the purposes of sections 115A.62 to 115A.72, it shall give notice to the petitioners of its intent to deny the petition. If a contested case hearing has not been held, the petitioners may request a hearing within 30 days of the notice of intent to deny the petition. The request shall be granted. Following the hearing and the report of the administrative law judge, the board shall make a final decision on the petition and mail a copy of its decision to the governing body of each affected political subdivision. If the board finds and determines that the establishment or alteration of a district as proposed in the petition would be in the public interest and would serve the purposes of sections 115A.62 to 115A.72, it shall, by order, establish the district, define its boundaries, and give it a corporate name by which, in all proceedings, it shall thereafter be known. The order shall include articles of incorporation stating the powers of the district and the location of its registered office. Upon the filing of a certified copy of the order of the board with the secretary of state, the district shall become a political subdivision of the state and a public corporation, with the authority, power, and duties prescribed in sections 115A.62 to 115A.72 and the order of the board. At the time of filing, a copy of the order shall be mailed by the board to the governing body of each political subdivision wholly or partly within the district or affected by the alteration of the district.

**History:** 1980 c 564 art 8 s 3; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32; 1986 c 444; 1987 c 186 s 15

#### **115A.65 PERPETUAL EXISTENCE.**

A waste district created under the provisions of sections 115A.62 to 115A.72 shall have perpetual existence to the extent necessary to perform all acts necessary and proper for carrying out and exercising the powers and duties expressly given in it. A district shall not be terminated except pursuant to section 115A.66.

**History:** 1980 c 564 art 8 s 4

**115A.66 TERMINATION.**

Subdivision 1. **Petition.** Proceedings for the termination of a district shall be initiated by the filing of a petition with the board. The petition shall be submitted by the governing bodies of not less than one-half of the counties which are wholly or partly in the district. The petition shall state that the existence of the district is no longer in the public interest. The petitioners shall publish notice of the petition in newspapers of general circulation in the district and shall cause to be served upon each political subdivision wholly or partly within the district a copy of the petition, and proof of service shall be attached to the petition filed with the board.

Subd. 2. **Bond; payment of costs.** If the petition is dismissed or denied, the petitioners shall be required to pay all costs and expenses of the proceeding for termination. At the time of filing the petition a bond shall be filed by the petitioners with the board in such sum as the board determines to be necessary to ensure payment of costs.

Subd. 3. **Hearing; decision.** If objection is made to the board against the petition for termination, a contested case hearing on the petition shall be held in the waste district pursuant to chapter 14. If the board determines that the termination of the district as proposed in the petition would not be in the public interest, the board shall give notice to the petitioner of its intent to deny the petition. If a contested case hearing has not been held, the petitioner may request a hearing within 30 days of the notice of intent to deny the petition. The request shall be granted. Following the hearing and the report of the administrative law judge, the board shall make a final decision on the petition. If the petition is dismissed all costs of the proceeding shall be assessed against the petitioner. If the board determines that the existence of the district is no longer in the public interest, the board shall by its findings and order terminate the district. Upon the filing of a certified copy of the findings and order with the secretary of state the district shall cease to be a public corporation and a political subdivision of the state.

Subd. 4. **Limitation.** The board shall not entertain a petition for termination of a district within five years from the date of the formation of the district nor shall the board entertain a petition for termination of the same district more often than once in five years.

*History: 1980 c 564 art 8 s 5; 1982 c 424 s 130; 1984 c 640 s 32*

**115A.67 ORGANIZATION OF DISTRICT.**

The governing body of each county wholly or partly within the district shall appoint two persons to serve on the first board of directors of the district, except that in the case of a district having territory within only two counties each county may appoint three persons. At least one person appointed by each county shall be an elected official of a local government unit having territory within the district. The first chair of the board of directors shall be appointed from outside the first board of directors by the chair of the waste management board. The first chair shall serve for a term of two years. Thereafter the chair shall be elected from outside the board of directors by majority vote of the board of directors. Members of the board of directors shall be residents of the district. The first meeting of the board of directors shall be held at the call of the chair, after notice, for the purpose of proposing the bylaws, electing officers and for any other business that comes before the meeting. The bylaws of the district, and amendments thereto, shall be adopted by a majority vote of the board of directors unless the certificate of incorporation requires a greater vote. The bylaws shall state:

(a) the manner and time of calling regular meetings of the representatives and the board of directors, not less than once annually;

(b) the title, manner of selection, and term of office of officers of the district;

(c) the term of office of members of the board of directors, the manner of their removal, and the manner of filling vacancies on the board of directors;

(d) the powers and duties of the board of directors consistent with the order and articles of incorporation establishing the district;

(e) the definition of a quorum for meetings of the board of directors, which shall be not less than a majority of the members;

(f) the compensation and reimbursement for expenses for members of the board of directors, which shall not exceed that provided for in section 15.0575, subdivision 3; and

(g) such other provisions for regulating the affairs of the district as the board of directors shall determine to be necessary.

**History:** 1980 c 564 art 8 s 6; 1983 c 373 s 39; 1986 c 444

#### **115A.68 REGISTERED OFFICE.**

Every district shall maintain an office in this state to be known as its registered office. When a district desires to change the location of its registered office, it shall file with the secretary of state, the board, and the commissioner of the agency, a certificate stating the new location by city, town, or other community and the effective date of change. When the certificate has been duly filed, the board of directors may make the change without any further action.

**History:** 1980 c 564 art 8 s 7; 1987 c 186 s 15

#### **115A.69 POWERS.**

Subdivision 1. **General.** A district shall have all powers necessary or convenient to perform its duties, including the powers provided in this section.

Subd. 2. **Actions.** The district may sue and be sued, and shall be a public body within the meaning of chapter 562.

Subd. 3. **Acquisition of property.** The district may acquire by purchase, lease, condemnation, gift, or grant, any right, title, and interest in and to real or personal property deemed necessary for the exercise of its powers or the accomplishment of its purposes, including positive and negative easements and water and air rights. Any local government unit and the commissioners of transportation, natural resources, and administration may convey to or permit the use of any property or facilities by the district, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. The district may hold the property for its purposes, and may lease or rent the property so far as not needed for its purposes, upon the terms and in the manner as it deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter 117. The district may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation.

Subd. 4. **Right of entry.** Whenever the district deems it necessary to the accomplishment of its purposes, the district or any member, employee, or agent thereof, when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

Subd. 5. **Gifts and grants.** The district may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of its purposes, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

Subd. 6. **Property exempt from taxation.** Any real or personal property owned, used, or occupied by the district for any authorized purpose is declared to be acquired, owned, used and occupied for public and governmental purposes, and shall be exempted from taxation by the state or any political subdivision of the state, provided that those properties shall be subject to special assessments levied by a political subdivision for

a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of the properties in any manner different from their use for solid waste management at the time shall be considered in determining the special benefit received by the properties.

**Subd. 7. Facilities and services.** The district may construct, equip, develop, enlarge, improve, and operate solid waste facilities and services as it deems necessary and may negotiate contracts for the use of public or private facilities and services. The district shall contract with private persons for the construction, maintenance, and operation of facilities and services where the facilities and services are adequate and available for use and competitive with other means of providing the same service.

**Subd. 8. Rates; charges.** The district may establish and collect rates and charges for the facilities and services provided by the district and may negotiate and collect rates and charges for facilities and services contracted for by the district. The board of directors of the district may agree with the holders of district obligations which are secured by revenues of the district as to the maximum or minimum amounts which the district shall charge and collect for services provided by the district. Before establishing or raising any rates and charges the board of directors shall hold a public hearing regarding the proposed rates and charges. Notice of the hearing shall be published at least once in a legal newspaper of general circulation throughout the area affected by the rates and charges. Publication shall be no more than 45 days and no less than 15 days prior to the date of the hearing.

**Subd. 9. Disposition of property.** The district may sell or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. The property shall be sold in the manner provided by section 469.065, insofar as practical. The district shall give notice of sale which it deems appropriate. When the district determines that any property which has been acquired from a government unit without compensation is no longer required, the district shall transfer it to the government unit.

**Subd. 10. Disposition of products and energy.** The district may use, sell, or otherwise dispose of all of the products and energy produced by its facilities. Section 471.345 shall not apply to the sale of products and energy. The district shall give particular consideration to the needs of purchasers in this state and shall actively promote sales to such purchasers so long as this can be done at prices and under conditions that meet constitutional requirements and that are consistent with the district's object of being financially self supporting to the greatest extent possible.

**Subd. 11. Contracts.** The district may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

**Subd. 12. Joint powers.** The district may act under the provisions of section 471.59, or any other law providing for joint or cooperative action between government units.

**Subd. 13. Research.** The district may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its work and may advise and assist other government units on planning matters within the scope of its powers, duties, and objectives.

**Subd. 14. Employees; contracts for services.** The district may employ persons or firms and contract for services to perform engineering, legal or other services necessary to carry out its functions.

**Subd. 15. Insurance.** The district may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in amounts it deems necessary to insure against liability of the board of directors and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it deems necessary.

**Subd. 16. Review of projects.** The district may require that persons shall not

acquire, construct, alter, reconstruct or operate a solid waste facility within the district without prior consultation with and approval of the district.

**History:** 1980 c 564 art 8 s 8; 1982 c 569 s 15; 1983 c 213 s 3; 1987 c 291 s 195

### 115A.70 DESIGNATION OF RESOURCE RECOVERY FACILITIES; REQUIRED USE.

Subd. 1. [Repealed, 1984 c 644 s 82]

Subd. 2. [Repealed, 1984 c 644 s 82]

Subd. 3. [Repealed, 1984 c 644 s 82]

Subd. 4. [Repealed, 1984 c 644 s 82]

Subd. 5. [Repealed, 1984 c 644 s 82]

Subd. 6. [Repealed, 1984 c 644 s 82]

Subd. 7. [Repealed, 1984 c 644 s 82]

Subd. 8. **Authority.** A waste management district possessing designation authority in its articles of incorporation may be authorized to designate a resource recovery facility under sections 115A.80 to 115A.89.

**History:** 1980 c 564 art 8 s 9; 1982 c 569 s 16-18; 1983 c 373 s 40,41; 1984 c 644 s 34

### 115A.71 BONDING POWERS.

Subdivision 1. **General.** A district may exercise the bonding powers provided in this section to the extent the powers are authorized by the order of the waste management board establishing the district and by its articles of incorporation.

Subd. 2. **Debt.** The district's bonds shall be sold, issued, and secured in the manner provided in chapter 475 for revenue bonds and the district shall have the same powers and duties as a municipality and its governing body in issuing revenue bonds under that chapter. No election shall be required. The bonds may be sold at any price and at public or private sale as determined by the district and shall not be subject to any limitation as to rate.

Subd. 3. **Revenue bonds.** A district may borrow money and incur indebtedness by issuing bonds and obligations which are payable solely:

(a) from revenues, income, receipts, and profits derived by the district from its operation and management of solid waste facilities;

(b) from the proceeds of warrants, notes, revenue bonds, debentures, or other evidences of indebtedness issued and sold by the district which are payable solely from such revenues, income, receipts, and profits;

(c) from federal or state grants, gifts, or other moneys received by the district which are available therefor.

Every issue of revenue bonds by the district shall be payable out of any funds or revenues from any facility of the district, subject only to agreements with the holders of particular bonds or notes pledging particular revenues or funds. If any facility of the district is funded in whole or in part by Minnesota waste management bonds issued under sections 115A.57 to 115A.59, the state bonds shall take priority. The district may provide for priorities of liens in the revenues between the holders of district obligations issued at different times or under different resolutions. The district may provide for the refunding of any district obligation through the issuance of other district obligations entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

**History:** 1980 c 564 art 8 s 10

### 115A.72 AUDIT.

The board of directors, at the close of each year's business, shall cause an audit of the books, records and financial affairs of the district to be made by a certified public

accountant or the state auditor. Copies of a written report of the audit, certified to by the auditors, shall be placed and kept on file at the principal place of business of the district and shall be filed with the secretary of state and the board.

**History:** 1980 c 564 art 8 s 11

### DESIGNATION OF FACILITIES

#### 115A.80 DESIGNATION OF RESOURCE RECOVERY FACILITIES; PURPOSE.

In order to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by resource recovery, the legislature finds and declares that it may be necessary pursuant to sections 115A.80 to 115A.89 to authorize a qualifying solid waste management district or county to designate a resource recovery facility.

**History:** 1984 c 644 s 35

#### 115A.81 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 115A.80 to 115A.893 have the meanings given them in this section.

Subd. 2. **Designation.** "Designation" means a requirement by a waste management district or county that all or any portion of the mixed municipal solid waste that is generated within its boundaries or any service area thereof be delivered to a resource recovery facility identified by the district or county.

Subd. 3. **Reviewing authority.** "Reviewing authority" means the agency responsible for reviewing and approving a designation plan under section 115A.84, subdivision 3, and a designation ordinance under section 115A.86, subdivision 2.

**History:** 1984 c 644 s 36; 1985 c 274 s 6; 1987 c 348 s 23

#### 115A.82 ELIGIBILITY.

Facilities may be designated under sections 115A.80 to 115A.89 by (1) a solid waste management district established pursuant to sections 115A.62 to 115A.72 and possessing designation authority in its articles of incorporation; or (2) a county, but only for waste generated outside of the boundaries of a district qualifying under clause (1) or the Western Lake Superior Sanitary District established by Laws 1971, chapter 478, as amended.

**History:** 1984 c 644 s 37

#### 115A.83 EXEMPTION.

The designation may not apply to or include: (1) materials that are separated from solid waste and recovered for reuse in their original form or for use in manufacturing processes; or (2) materials that are processed at another resource recovery facility at the capacity in operation at the time that the designation plan is approved by the reviewing authority.

**History:** 1984 c 644 s 38

#### 115A.84 DESIGNATION PLAN.

Subdivision 1. **Requirement.** Before commencing the designation procedure under section 115A.85, the district or county shall adopt a comprehensive solid waste management plan or, under chapter 473, a master plan. The comprehensive or master plan must include a plan for designation approved under this section.

Subd. 2. **Designation; plan contents.** (a) The designation plan must evaluate (1) the benefits of the designation, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02; and (2) the estimated costs of the designation,

including the direct capital, operating, and maintenance costs of the facility designated, the indirect costs, and the long-term effects of the designation.

(b) In particular the designation plan must evaluate:

(1) whether the designation will result in the recovery of resources or energy from materials which would otherwise be wasted;

(2) whether the designation will lessen the demand for and use of land disposal;

(3) whether the designation is necessary for the financial support of the facility;

(4) whether less restrictive methods for ensuring an adequate solid waste supply are available; and

(5) other feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators.

**Subd. 3. Plan approval.** A district or county planning a designation for waste generated wholly within the metropolitan area defined in section 473.121 shall submit its designation plan to the metropolitan council for review and approval or disapproval. Other districts or counties shall submit the designation plan to the waste management board for review and approval or disapproval. The reviewing authority shall complete its review and make its decision within 120 days following submission of the plan for review. The reviewing authority shall approve the designation plan if the plan satisfies the requirements of subdivision 2. The reviewing authority may attach conditions to its approval that relate to matters required in a designation ordinance under section 115A.86, subdivision 1, paragraph (a), clauses (1) to (4), and paragraph (b). Amendments to plans must be submitted for review in accordance with this subdivision.

**Subd. 4. Exclusion of certain materials.** When it approves the designation plan, the reviewing authority shall exclude from the designation materials that the reviewing authority determines will be processed at another resource recovery facility if:

(1) the other resource recovery facility is substantially completed or will be substantially completed within 18 months of the time that the designation plan is approved by the reviewing authority; and

(2) the other facility has or will have contracts for purchases of its product; and

(3) the materials are or will be under contract for delivery to the other facility at the time the other facility is completed.

In order to qualify for the exclusion of materials under this subdivision, the operator or owner of the other resource recovery facility shall file with the reviewing authority and the district or county or counties a written description of the facility, its intended location, its waste supply sources, purchasers of its products, its design capacity and other information that the reviewing authority and the district or county or counties may reasonably require. The information must be filed as soon as it becomes available but not later than 30 days following the date when the county or district submits its designation plan for approval.

The reviewing authority may revoke the exclusion granted under this subdivision when it approves the designation ordinance under section 115A.86 if in its judgment the excluded materials will not be processed at the other facility.

**History:** 1984 c 644 s 39; 1985 c 274 s 7,8

### 115A.85 PROCEDURE.

**Subdivision 1. Requirement.** A district or county with an approved designation plan shall proceed as provided in this section when designating facilities. A district need not repeat the designation procedures in this section to the extent that the procedures have been completed by each county having territory in the district or by a joint powers board composed of each county having territory in the district.

**Subd. 2. Hearing.** The district or county shall hold a public hearing to take testimony on the designation. Notice of the hearing must be published in a newspaper



of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing and must be mailed to political subdivisions, landfill operators, and licensed solid waste collectors who may be expected to use the facility. The notification must: (1) describe the area in which the designation will apply and the plans for the use of the solid waste; (2) specify the point or points of delivery of the solid waste; (3) estimate the types and quantities of solid waste subject to the designation; and (4) estimate the fee to be charged for the use of the facilities and for any products of the facilities. A designation or contract for use is not invalid by reason of the failure of the district or county to provide written notice to an entity listed in this subdivision.

**Subd. 3. Negotiated contracts for use.** During a period of 90 days following the hearing, the district or county shall negotiate with the persons entitled to written notice under subdivision 2 for the purpose of developing contractual agreements that will require use of the facilities proposed to be designated.

**Subd. 4. Designation decision.** At the end of the 90-day contract negotiation period the district or county may proceed to secure approval for and implement the designation as provided in section 115A.86.

**History:** 1984 c 644 s 40

### 115A.86 IMPLEMENTATION OF DESIGNATION.

**Subdivision 1. Designation ordinance.** (a) The district or county shall prepare a designation ordinance to implement a designation. The designation ordinance must: (1) define the geographic area and the types and quantities of solid waste subject to designation; (2) specify the point or points of delivery of the solid waste; (3) require that the designated solid waste be delivered to the specified point or points of delivery; (4) require the designated facility to accept all designated solid waste delivered to the specified point or points of delivery, unless the facility has notified waste collectors in the designated area that the facility is inoperative; (5) set out the procedures and principles to be followed by the county or district in establishing and amending any rates and charges at the designated facility; and (6) state any additional regulations governing waste collectors or other matters necessary to implement the designation.

(b) The designation ordinance must provide an exception for: (1) materials that are exempt or excluded from the designation under section 115A.83 or 115A.84, subdivision 4; and (2) materials otherwise subject to the designation for which negotiated contractual arrangements exist that will require and effect the delivery of the waste to the facility for the term of the contract.

**Subd. 2. Approval.** A district or county whose designation applies wholly within the metropolitan area defined in section 473.121 shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the metropolitan council for review and approval or disapproval. Other districts or counties shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the waste management board for review and approval or disapproval. The reviewing authority shall complete its review and make its decision within 90 days following submission of the designation for review. The reviewing authority shall approve the designation if it determines that the designation procedure specified in section 115A.85 was followed and that the designation is based on a plan approved under section 115A.84. The reviewing authority may attach conditions to its approval.

**Subd. 3. Implementation.** The designation may be placed into effect no less than 60 days following the approval required in subdivision 2. The effective date of the designation must be specified at least 60 days in advance. If the designation is not placed into effect within two years of approval, the designation must be resubmitted to the reviewing authority for approval or disapproval under subdivision 2, unless bonds have been issued to finance the resource recovery facility to which the designation applies.

**Subd. 4. Effect.** The designation is binding on all political subdivisions, landfill operators, solid waste generators, and solid waste collectors in the designation area.

Subd. 5. **Amendments.** Amendments to a designation ordinance must be submitted to the reviewing authority for approval. The reviewing authority shall approve the amendment if the amendment is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02. If the reviewing authority does not act within 90 days, the amendment is approved.

**History:** 1984 c 644 s 41; 1985 c 274 s 9

#### 115A.87 JUDICIAL REVIEW.

An action challenging a designation must be brought within 60 days of the approval of the designation by the reviewing authority. The action is subject to section 562.02.

**History:** 1984 c 644 s 42

#### 115A.88 SERVICE GUARANTEE.

The district or county may not arbitrarily terminate, suspend, or curtail services provided to any person required by contract or designation ordinance to use designated facilities without the consent of the person or without just cause.

**History:** 1984 c 644 s 43

#### 115A.882 INSPECTION OF RECORDS.

A person authorized by a county in which a designation is effective may, upon presentation of identification and without a search warrant, inspect or copy records of an owner or operator of any waste facility in the state that contain information regarding the volume, type, origin, and weight of the waste received by the facility, and the date and time of weighing. A person who fails to open for inspection and copying the records referred to in this section is guilty of a misdemeanor.

**History:** 1988 c 521 s 1

#### 115A.89 SUPERVISION OF IMPLEMENTATION.

The reviewing authority shall: (1) require regular reports on the implementation of each designation; (2) periodically evaluate whether each designation as implemented has accomplished its purposes and whether the designation is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02; and (3) report periodically to the legislature on its conclusions and recommendations.

**History:** 1984 c 644 s 44

#### 115A.893 PETITION FOR EXCLUSION.

Any person proposing to own or operate a resource recovery facility using waste materials subject to a designation ordinance may petition the waste district or county for exclusion of the materials from the designation ordinance. In order to qualify for the exclusion of materials under this section, the petitioner shall submit with the petition a written description of the proposed facility, its intended location, its waste supply sources, purchasers of its products, its design capacity, and other information that the district or county may reasonably require. The district or county, after appropriate notice and hearing, shall issue a written decision with findings of fact and conclusions on all material issues. The district or county shall grant the petition if it determines that: (a) the materials will be processed at the resource recovery facility, and (b) the exclusion can be implemented without impairing the financial viability of the designated facility or impairing contractual obligations or preventing the performance of contracts by the facility owner or operator, the district or county, or users of the facility. Any person aggrieved by the decision of the district or county may appeal to the reviewing authority. The review is confined to the record. The decision of the reviewing authority must be based on the standards stated in this section. If the reviewing authority approves the petition, the designation ordinance must be amended

in conformance with the decision of the reviewing authority. The petition may be amended during the proceedings by agreement between the petitioner and the district or county.

**History:** 1985 c 274 s 10

## SOLID WASTE MANAGEMENT

### 115A.90 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 115A.90 to 115A.914.

Subd. 2. **Board.** "Board" means the waste management board.

Subd. 3. **Collection site.** "Collection site" means a permitted site, or a site exempted from permit, used for the storage of waste tires.

Subd. 4. [Repealed, 1988 c 685 s 44]

Subd. 5. **Person.** "Person" has the meaning given in section 116.06, subdivision 8.

Subd. 6. **Processing.** "Processing" means producing or manufacturing usable materials, including fuel, from waste tires including necessary incidental temporary storage activity.

Subd. 7. **Tire.** "Tire" means a pneumatic tire or solid tire for motor vehicles as defined in section 169.01.

Subd. 8. **Tire collector.** "Tire collector" means a person who owns or operates a site used for the storage, collection, or deposit of more than 50 waste tires.

Subd. 9. **Tire dump.** "Tire dump" means an establishment, site, or place of business without a required tire collector or tire processor permit that is maintained, operated, used, or allowed to be used for storing, keeping, or depositing unprocessed waste tires.

Subd. 10. **Tire processor.** "Tire processor" means a person engaged in the processing of waste tires.

Subd. 11. **Waste tire.** "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

**History:** 1984 c 654 art 2 s 92; 1988 c 685 s 45

### 115A.902 PERMIT; TIRE COLLECTORS, PROCESSORS.

Subdivision 1. **Permit required.** A tire collector or tire processor with more than 500 waste tires shall obtain a permit from the board unless exempted in subdivision 2. The board may by rule require tire collectors or tire processors with less than 500 waste tires to obtain permits unless exempted by subdivision 2.

Subd. 2. **Exemptions.** A permit is not required for:

(1) a retail tire seller for the retail selling site if no more than 500 waste tires are kept on the business premises;

(2) an owner or operator of a tire retreading business for the business site if no more than 3,000 waste tires are kept on the business premises;

(3) an owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises;

(4) a permitted landfill operator with less than 10,000 waste tires stored above ground at the permitted site; or

(5) a person using waste tires for agricultural purposes if the waste tires are kept on the site of use.

Subd. 3. **Local authority.** The issuance of a board permit does not replace a permit or license required under section 400.16 or 473.811.

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Subd. 4. **Permit fee.** The revenue from permit fees shall be credited to the general fund.

**History:** 1984 c 654 art 2 s 93; 1988 c 685 s 45

## 115A.904 LAND DISPOSAL PROHIBITED.

The disposal of waste tires in the land is prohibited after July 1, 1985. This does not prohibit the storage of unprocessed waste tires at a collection or processing facility.

**History:** 1984 c 654 art 2 s 94; 1Sp1985 c 13 s 230; 1Sp1985 c 16 art 2 s 42 subd 1

## 115A.906 WASTE TIRE NUISANCE; ABATEMENT.

Subdivision 1. **Nuisance.** A tire dump unreasonably endangers the health, safety, and comfort of individuals and the public and is a nuisance.

Subd. 2. **Abatement.** The board may abate a nuisance by processing and removing the tires. Before taking any action to abate a nuisance, the board shall give notice to the tire collector responsible for the nuisance that the tires to be processed and removed constitute a nuisance and demand that the tires be shredded or chipped or removed within a specified period. Failure of the tire collector to take the required action within the specified period shall result in the issuance of a board order to abate the nuisance. The abatement order may include entering the property where the nuisance is located, taking tires into public custody, and providing for their processing and removal. The board order may be enforced pursuant to the provisions of section 115.071.

Subd. 3. **Recovery of expenses.** Any reasonable and necessary expenses incurred by the board for abatement costs, and administrative and legal expenses, may be recovered in a civil action brought by the attorney general against any tire collector responsible for the nuisance. The board's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary.

Subd. 4. **Other abatement.** This section does not change the existing authority of a person or political subdivision to abate a tire dump nuisance. The board may reimburse a person or political subdivision for the costs of abatement.

**History:** 1984 c 654 art 2 s 95; 1988 c 685 s 45

## 115A.908 MOTOR VEHICLE TRANSFER FEE.

Subdivision 1. **Fee charged.** A fee of \$4 shall be charged on the initial registration and each subsequent transfer of title within the state, other than transfers for resale purposes, of every motor vehicle weighing more than 1,000 pounds. The fee shall be collected in an appropriate manner by the motor vehicle registrar. Registration plates or certificates may not be issued by the motor vehicle registrar for the ownership or operation of a motor vehicle subject to the transfer fee unless the fee is paid. The fee may not be charged on the transfer of:

- (1) previously registered vehicles if the transfer is to the same person;
- (2) vehicles subject to the conditions specified in section 297A.25, subdivision 11;

or

- (3) vehicles purchased in another state by a resident of another state if more than 60 days have elapsed after the date of purchase and the purchaser is transferring title to this state and has become a resident of this state after the purchase.

Subd. 2. **Deposit of revenue.** Revenue collected shall be credited to a motor vehicle transfer fund.

Subd. 3. **Repealer.** This section is repealed on December 31, 1994.

**History:** 1984 c 654 art 2 s 96; 1Sp1985 c 13 s 231

**115A.912 WASTE TIRE MANAGEMENT.**

Subdivision 1. **Purpose.** Money appropriated to the board for waste tire management may be spent for elimination of health and safety hazards of tire dumps and collection sites, tire dump abatement, collection, management and clean up of waste tires, regulation of permitted waste tire facilities, research and studies to determine the technical and economic feasibility of uses for tire derived products, public education on waste tire management, and grants and loans under section 115A.913.

Subd. 2. **Priorities for spending.** The board shall apply the following criteria to establish priorities: (1) tire dumps or collection sites determined by the board to contain more than 1,000,000 tires; (2) abatement of fire hazard nuisances; (3) abatement of nuisance in densely populated areas; and (4) collection and clean up of waste tires including abatement of tire dumps.

Subd. 3. **Contracts with counties.** The board may contract with counties for the abatement of waste tire nuisances and may reimburse a county for up to 85 percent of the cost of abatement. A contract with a county for abatement of waste tire nuisances must incorporate a plan approved by the board that provides for the removal and processing of the waste tires in a manner consistent with board standards and ongoing board abatement activities. A county may recover by civil action its part of abatement costs from the tire collector responsible for a nuisance.

**History:** 1984 c 654 art 2 s 97; 1988 c 685 s 14

**115A.913 WASTE TIRE PROGRAMS.**

Subdivision 1. **Loans and grants.** (a) The board may make loans to waste tire processing businesses for the capital costs of land, buildings, equipment, and other capital improvements needed for the construction or betterment of waste tire processing facilities, and for the capital cost of equipment needed to transport waste tires to a waste tire processing facility. The board may also make loans to businesses that use waste tire derived products in manufacturing processes, for the capital costs of land, buildings, and equipment used in the manufacturing process.

(b) The board may make grants for studies necessary to demonstrate the technical and economic feasibility of a proposed waste tire processing project, or of a proposed use for waste tire derived products in a manufacturing process. A grant may not exceed \$30,000 and may not exceed 75 percent of the costs of a study.

Subd. 2. **Collection and transportation.** The board may make grants to local government units for the cost of establishing waste tire collection sites. Grants may be used for the capital costs of land, structures, and equipment needed to establish waste tire collection sites, and to collect and transport waste tires. A grant may not exceed 50 percent of the cost to a local government unit to establish a waste tire collection site.

Subd. 3. **Feasibility studies.** The board may conduct research and studies to determine the technical and economic feasibility of uses for waste tire derived products.

Subd. 4. **Public education.** The board may conduct a program to inform the public about proper handling and opportunities for processing of waste tires consistent with section 115A.072.

Subd. 5. **Report.** By November 15 of each year, the board shall prepare and submit to the legislative commission on waste management a progress report of the board's operations and activities under sections 115A.90 to 115A.914.

**History:** 1988 c 685 s 15

**115A.914 ADMINISTRATION; COUNTY PLANNING AND ORDINANCES.**

Subdivision 1. **Regulatory and enforcement powers.** For purposes of implementing and enforcing the waste tire programs in sections 115A.90 to 115A.914, the board may exercise the regulatory and enforcement powers of the agency under chapters 115 and 116.

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Subd. 2. **Board rules.** The board shall adopt rules for administration of waste tire collector and processor permits, waste tire nuisance abatement, and waste tire collection.

Subd. 3. **County planning; ordinances.** Counties shall include collection and processing of waste tires in the solid waste management plan prepared under sections 115A.42 to 115A.46 and shall adopt ordinances under sections 400.16 and 473.811 for management of waste tires that embody, but may be more restrictive than, board rules.

*History: 1984 c 654 art 2 s 98; 1Sp1985 c 13 s 232; 1988 c 685 s 16*

## 115A.915 LEAD ACID BATTERIES; LAND DISPOSAL PROHIBITED.

A person may not place a lead acid battery in mixed municipal solid waste or dispose of a lead acid battery after January 1, 1988. This section may be enforced by the agency pursuant to section 115.071.

*History: 1987 c 348 s 24*

## 115A.916 USED OIL; LAND DISPOSAL PROHIBITED.

A person may not place used oil in mixed municipal solid waste or place used oil in or on the land, unless approved by the agency. This section may be enforced by the agency pursuant to section 115.071.

*History: 1987 c 348 s 25; 1988 c 685 s 17*

## 115A.9162 USED OIL LOANS AND GRANTS.

Subdivision 1. **Loans.** The board may make loans to businesses for the purchase of used oil processing equipment.

Subd. 2. **Grants.** The board may make grants to counties for installation of storage tanks to collect used oil. To be eligible for a grant, a county must obtain approval from the commissioner of the agency for the type of tank to be used, the location and installation of the tank, and the proposed ongoing maintenance and monitoring of the collection site. A tank may be located on public or private property and must be made available to the public for used oil disposal. A grant for a single tank may not exceed \$2,500 and a county may not receive more than \$5,000 in grants for storage tanks.

*History: 1988 c 685 s 18*

## 115A.917 CERTIFICATE OF NEED.

No new capacity for disposal of mixed municipal solid waste may be permitted in counties outside the metropolitan area without a certificate of need issued by the board indicating the board's determination that the additional disposal capacity is needed in the county. A certificate of need may not be issued until the county has a plan approved under section 115A.46. If the original plan was approved more than five years before, the board may require the plan to be revised before a certificate of need is issued under this section. The board shall certify need only to the extent that there are no feasible and prudent alternatives to the additional disposal capacity, including waste reduction, source separation, and resource recovery, that would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural are not feasible and prudent. Economic considerations alone do not justify the certification of need or the rejection of alternatives.

*History: 1984 c 644 s 45; 1987 c 404 s 145*

## 115A.918 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to this section and sections 115A.919 and 115A.921.

Subd. 2. **Closure.** "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed solid waste

disposal facility including application of final cover; grading and seeding of final cover; installation of an adequate monitoring system, if necessary; and construction of ground and surface water diversion structures.

Subd. 3. **Operator.** "Operator" means:

(1) the permittee of a mixed municipal solid waste disposal facility that has an agency permit; or

(2) the person in control of a mixed municipal solid waste disposal facility that does not have an agency permit.

Subd. 4. **Postclosure, postclosure care.** "Postclosure" and "postclosure care" mean actions taken for the care, maintenance, and monitoring of a solid waste disposal facility after closure that will prevent, mitigate, or minimize the threat to public health and environment posed by the closed facility.

Subd. 5. **Response.** "Response" has the meaning given it in section 115B.02, subdivision 18.

**History:** 1985 c 274 s 11

#### 115A.919 COUNTY FEE AUTHORITY.

A county may impose a fee, by cubic yard of waste or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the county. The revenue from the fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities.

Waste residue from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from one-half the amount of the fee imposed by a county under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county.

**History:** 1984 c 644 s 46; 1985 c 274 s 12; 1988 c 685 s 19

**NOTE:** This section, as added by Laws 1984, chapter 644, section 46, is effective January 1, 1985, except that the fees imposed by this section are effective January 1, 1990, with respect to nonhazardous solid waste from metalcasting facilities. See Laws 1984, chapter 644, section 85, as amended by Laws 1987, chapter 348, section 50.

#### 115A.921 CITY OR TOWN FEE AUTHORITY.

A city or town may impose a fee, not to exceed 35 cents per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the city or town. The revenue from the fees must be credited to the city or town general fund. Revenue produced by 25 cents of the fee must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. Revenue produced by ten cents of the fee may be used for any general fund purpose. Waste residue from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from one-half the amount of the fee imposed by a city or town under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate city or town.

**History:** 1984 c 644 s 47; 1987 c 348 s 26; 1988 c 685 s 20

**NOTE:** This section, as added by Laws 1984, chapter 644, section 47, is effective January 1, 1985, except that the fees imposed by this section are effective January 1, 1990, with respect to nonhazardous waste from metalcasting facilities. See Laws 1984, chapter 644, section 85, as amended by Laws 1987, chapter 348, section 50.

**115A.931 LAND DISPOSAL OF YARD WASTE.**

(a) Except as authorized by the agency, in the metropolitan area after January 1, 1990, and outside the metropolitan area after January 1, 1992, a person may not dispose of yard waste:

- (1) in mixed municipal solid waste;
- (2) in a disposal facility; or
- (3) in a resource recovery facility except for the purposes of composting or co-composting.

(b) Yard waste subject to this subdivision is garden wastes, leaves, lawn cuttings, weeds, and prunings.

**History:** 1988 c 685 s 21

**115A.94 ORGANIZED COLLECTION.**

Subdivision 1. **Definition.** "Organized collection" means a system for collecting solid waste in which a specified collector, or a member of an organization of collectors, is authorized to collect from a defined geographic service area or areas some or all of the solid waste that is released by generators for collection.

Subd. 2. **Local authority.** A city or town may organize collection, after public notification as required in subdivision 4. A county may organize collection as provided in subdivision 5.

Subd. 3. **General provisions.** (a) The local government unit may organize collection as a municipal service or by ordinance, franchise, license, negotiated or bidded contract, or other means, using one or more collectors or an organization of collectors.

(b) The local government unit may not establish or administer organized collection in a manner that impairs the preservation and development of recycling and markets for recyclable materials. The local government unit shall exempt recyclable materials from organized collection upon a showing by the generator or collector that the materials are or will be separated from mixed municipal solid waste by the generator, separately collected, and delivered for reuse in their original form or for use in a manufacturing process.

(c) The local government unit may invite and employ the assistance of interested persons, including persons operating solid waste collection services, in developing plans and proposals for organized collection and in establishing the organized collection system.

(d) Organized collection accomplished by contract or as a municipal service may include a requirement that all or any portion of the solid waste, except (1) recyclable materials and (2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the requirement is imposed, be delivered to a waste facility identified by the local government unit. In a district or county where a resource recovery facility has been designated by ordinance under section 115A.86, organized collection must conform to the requirements of the designation ordinance.

Subd. 4. **Cities and towns; notice; planning.** (a) At least 90 days before proposing an ordinance, franchise, license, contract or other means of organizing collection, a city or town, by resolution of the governing body, shall announce its intent to organize collection and invite the participation of interested persons in planning and establishing the organized collection system.

(b) The resolution of intent must be adopted after a public hearing. The hearing must be held at least two weeks after public notice and mailed notice to persons known by the city or town to be operating solid waste collection services in the city or town. The failure to give mailed notice to persons or defect in the notice does not invalidate the proceedings, provided a bona fide effort to comply with notice requirements has been made.

(c) During the 90-day period following the resolution of intent, and before propos-



ing a method of organizing collection, the city or town shall develop or supervise the development of plans or proposals for organized collection.

(d) Upon request, the city or town shall provide mailed notice of subsequent proceedings on the organization of collection in the city or town.

**Subd. 5. County organized collection.** (a) A county may by ordinance require cities and towns within the county to organize collection. Organized collection ordinances of counties may:

(1) require cities and towns to require the separation and separate collection of recyclable materials;

(2) specify the material to be separated; and

(3) require cities and towns to meet any performance standards for source separation that are contained in the county solid waste plan.

(b) A county may itself organize collection in any city or town that does not comply with a county organized collection ordinance adopted under this subdivision, and the county may implement, as part of its organized collection, the source separation program and performance standards required by its organized collection ordinance.

**History:** 1987 c 348 s 27

#### **115A.95 RECYCLABLE MATERIALS.**

A resource recovery facility that is composting waste, burning waste, or converting waste to energy or to materials for combustion, and is owned or operated by a public agency or supported by public funds or by obligations issued by a public agency, may not accept recyclable materials except for transfer to a recycler, unless no other person is willing to accept the recyclable materials.

**History:** 1985 c 274 s 13; 1987 c 348 s 28

#### **115A.96 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.**

**Subdivision 1. Definitions.** The following definitions apply to this section:

(a) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

(b) "Household hazardous waste" means waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under agency rules, but does not include waste from commercial activities that is generated, stored, or present in a household.

(c) "Collection site" means a permanent or temporary designated location with scheduled hours for collection where individuals may bring household hazardous wastes.

**Subd. 2. Management program.** The agency shall establish a program to manage household hazardous wastes. The program must include:

(1) the establishment and operation of collection sites; and

(2) the provision of information, education, and technical assistance regarding proper management of household hazardous wastes.

**Subd. 3. Other participants.** The agency may establish or operate all or part of the management program or may provide for services by contract or other agreement with public or private entities.

**Subd. 4. Management.** Any person who establishes or operates all or part of a household hazardous waste management program shall manage collected waste in compliance with standards applicable to a hazardous waste generator. If collected waste must be stored for a time exceeding those standards, the agency or other entity shall obtain the approval of the commissioner of the agency and shall manage the waste in compliance with applicable standards for the use and management of containers, but no facility permit is required.

Subd. 5. **Other programs.** A person must notify the commissioner of the agency before establishing and operating any part of a household hazardous waste management program.

**History:** 1987 c 186 s 15; 1987 c 348 s 29

#### 115A.97 SPECIAL WASTE; INCINERATOR ASH.

Subdivision 1. **Policy; goals.** It is the policy of the legislature that mixed municipal solid waste incinerators be planned and managed to achieve to the maximum extent feasible and prudent:

- (1) reduction of the toxicity of incinerator ash;
- (2) reduction of the quantity of the incinerator ash; and
- (3) reduction of the quantity of waste processing residuals that require disposal.

The purpose of this section is to establish temporary and permanent programs to achieve these reduction goals.

Subd. 2. **Definitions.** For the purposes of this section the following terms have the meanings given them.

"Incinerator ash" means ash resulting from the combustion of mixed municipal solid waste and ash resulting from the combustion of refuse derived fuel.

"Noncombustible fraction" means constituents of mixed municipal solid waste, including glass, ferrous metals, nonferrous metals and other inorganics, that, when burned, disproportionately add to the quantity of incinerator ash.

Subd. 3. **Rules.** The agency shall adopt rules to establish techniques to measure the noncombustible fraction of mixed municipal solid waste prior to incineration or processing into refuse derived fuel and for at least the testing, management, and disposal of incinerator ash. The rules must be designed to meet the goals in subdivision 1.

Subd. 4. **Interim program.** (a) Incinerator ash is considered special waste for an interim period which expires on the occurrence of the earliest of the following events:

- (1) The United States Environmental Protection Agency establishes testing and disposal requirements for incinerator ash;
- (2) The agency adopts the rules required in subdivision 3; or
- (3) June 30, 1990.

(b) As a special waste incinerator ash must be stored separately from mixed municipal solid waste with adequate controls to protect the environment as provided in agency permits. For the interim period, the agency, in cooperation with generators of incinerator ash and other interested parties, shall establish a temporary program to test, monitor, and store incinerator ash. The program must include separate testing of fly ash, bottom ash, and combined ash unless the agency determines that because of physical constraints at the facility separate samples of fly ash and bottom ash cannot be reasonably obtained in which case only combined ash must be tested. Incinerator ash stored during the interim is subject to the rules adopted pursuant to subdivision 3 and to the provisions of chapter 115B.

Subd. 5. **Plans; board report.** A county solid waste plan, or revision of a plan, that includes incineration of mixed municipal solid waste must clearly state how the county plans to meet the goals in subdivision 1 of reducing the toxicity and quantity of incinerator ash and of reducing the quantity of processing residuals that require disposal. The board, in cooperation with the agency, the counties, and the metropolitan council, may develop guidelines for counties to use to identify ways to meet the goals in subdivision 1.

The board, in cooperation with the agency, the counties, and the metropolitan council, shall develop and propose statewide goals and timetables for the reduction of the noncombustible fraction of mixed municipal solid waste prior to incineration or processing into refuse derived fuel and for the reduction of the toxicity of the incinerator ash. By January 1, 1990, the board shall report to the legislative commission on

waste management on the proposal goals and timetables with recommendations for their implementation.

**Subd. 6. Permits; agency report.** An application for a permit to build or operate a mixed municipal solid waste incinerator, including an application for permit renewal, must clearly state how the applicant will achieve the goals in subdivision 1 of reducing the toxicity and quantity of incinerator ash and of reducing the quantity of processing residuals that require disposal. The agency, in cooperation with the board, the counties, and the metropolitan council, may develop guidelines for applicants to use to identify ways to meet the goals in subdivision 1.

If, by January 1, 1990, the rules required by subdivision 3 are not in at least final draft form, the agency shall report to the legislative commission on waste management on the status of current incinerator ash management programs with recommendations for specific legislation to meet the goals of subdivision 1.

**History:** 1988 c 685 s 13

### 115A.98 WASTE DISPOSAL FEE REGULATION.

**Subdivision 1. Fee regulation.** The legislature finds that the limited number of solid waste disposal facilities in the metropolitan area has created a condition that could allow operators to charge unjust and unreasonable rates. The legislature finds that until sufficient alternatives to landfill disposal become available, the disposal of solid waste is necessary for the health and general welfare of the citizens of this state. Therefore, to ensure just and reasonable fees for the disposal of solid waste, ash, and construction debris in the metropolitan area and a reasonable rate of return to owners and operators of disposal facilities while achieving environmental requirements and other community standards at the facilities, disposal fee structures of disposal facilities that accept solid waste, ash, or construction debris will be publicly regulated.

**Subd. 2. Disposal fee disclosure.** By July 1 of each year, each permittee of a disposal facility that accepts solid waste, ash, or construction debris in the metropolitan area shall file with the agency the disposal fees of that facility, including any proposed changes in those fees. The permittee of a facility must also file all necessary documentation to support the amounts of the fees charged, the costs of operation, and the necessity of fee increases to reflect cost increases. Until June 1, 1989, disposal fees in the metropolitan area may not be increased except to reflect documented increases in the costs of operation of the disposal facility. The agency may suspend the operation of a disposal facility whose permittee fails to file the information required in this subdivision or files inadequate information to support fee increases based on increased costs until such time as the permittee files adequate information.

**Subd. 3. Commission recommendation.** The legislative commission on waste management, in cooperation with the agency, the board, the public utilities commission, other state agencies, and interested parties shall study current fee structures at disposal facilities in the state for the purpose of recommending to the legislature a regulatory program to ensure just and reasonable disposal fees. The recommendation must include identification of an appropriate entity to impose fee regulation, a structure for fee regulation, standards to be used in regulating fees, and procedures to be followed to regulate fees. The commission's recommendation must be finalized no later than December 31, 1988.

**Subd. 4. Effect on surcharges.** This section does not affect the amount of any city, county, or state surcharges on disposal fees.

**History:** 1988 c 685 s 22